

PAUL WARD  
April 20, 2022

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NORTH DAKOTA  
WESTERN DIVISION

STATE OF NORTH )  
DAKOTA, ) Civil No.  
Plaintiff, ) 1:19-cv-00150-DMT-  
vs. ) ARS  
THE UNITED STATES ) DEPOSITION OF:  
OF AMERICA, ) PAUL WARD  
Defendant. )

THE VIDEOCONFERENCE DEPOSITION OF PAUL WARD,  
taken before Tracy E. Barksdale, Registered  
Professional Reporter, commencing at 8:27  
a.m. MDT, April 20, 2022.

Reporter: Tracy E. Barksdale, RPR, CSR

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		22
		23
		24
		25
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Objection to all  
testimony as hearsay,  
802

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1	State of North Dakota.	1 sworn in this morning to tell the truth?
2	MR. SEBY: Yes. Sorry. I was on	2 A. Yes.
3	mute. This is Paul Seby. I'm not taking the	3 Q. And could you state your name for the
4	deposition, Mr. Kerlin is, but I'll be noting	4 record.
5	myself as present.	5 A. Paul Ward.
6	PAUL WARD,	6 Q. Do you go by any other names?
7	having been first duly sworn,	7 A. No.
8	was examined and testified as follows:	8 Q. Have you been deposed or provided
9	MR. KERLIN: Good morning. This	9 in-court testimony before?
10	will be the deposition of Paul Ward, taken	10 A. Yes.
11	pursuant to the notice that was served on	11 Q. So I'm sure you're familiar with the
12	defendants USA and agreement of counsel.	12 process, but, just to go over it briefly,
13	EXAMINATION	13 everything that we say is being written down
14	BY MR. KERLIN:	14 and videotaped. We also are doing this by
15	Q. Mr. Ward, my name is Paul Kerlin. I'm	15 Zoom, and I know we've already had a couple
16	both an attorney with the law firm, Greenberg	16 little technical issues that I think we've
17	Trauring, and, along with my law partner, Paul	17 gotten resolved, but if I ask you for a
18	Seby, who is a special assistant attorney	18 verbal response, it's only so that the court
19	general for North Dakota, we represent the	19 reporter will have a verbal yes or no.
20	State of North Dakota. Throughout the	20 Sometimes we can, you know, nod our heads or
21	deposition today, I'll refer to my client as	21 shake our heads, and the same thing with
22	North Dakota. Okay?	22 uh-huhs or things of that nature; is that
23	A. Fine. Is there any way that I can see	23 acceptable?
24	you as opposed to Bill on the screen when	24 A. Yes.
25	you're speaking to me?	25 Q. Also, sometimes witnesses can anticipate
	Page 7	Page 9
1	MR. KERLIN: Sure. Is there anyone	1 the end of a question or where the question
2	that can help us with that? Perhaps Shawn	2 is going and start providing an answer before
3	could.	3 the question is completed. I would ask that
4	THE VIDEOGRAPHER: Yeah. Sounds	4 you wait until I finish asking my question
5	like they're on a video conference system, so	5 before you start your answer; again, so the
6	there should be another function to the video	6 court reporter will be able to have a clean
7	conference to that.	7 record. Okay?
8	MR. SEBY: Paul, if you'd like to	8 A. Yes.
9	give Mike a shout, he should be able to do	9 Q. I'll do the best not to interrupt you
10	that.	10 when you're providing answers. If I do,
11	THE VIDEOGRAPHER: Is it okay if we	11 I'll, of course, give you an opportunity to
12	go off the record?	12 finish your answer so that I don't interrupt.
13	MR. SEBY: Sure.	13 But, again, sometimes when we are doing this
14	THE VIDEOGRAPHER: We're going off	14 by remote means, it can be -- there can be
15	the record. Universal coordinated time is	15 some interruptions or inadvertent speaking
16	1421. We're off the record.	16 over each other. I'll try to minimize that
17	(Discussion held off record)	17 as much as I can.
18	THE VIDEOGRAPHER: We're now back	18 If you need a break, let me know.
19	on the record. Universal coordinated time is	19 I'd ask, if there's a question pending, that
20	1439.	20 you please answer the pending question, and
21	BY MR. KERLIN:	21 then we're happy to take a break as needed
22	Q. Mr. Ward, we're back after a short	22 throughout the course of the deposition. I
23	technical break. Are you able to continue?	23 would suggest a break about every hour or so
24	A. Yes.	24 for everyone to have a chance to stretch
25	Q. Okay. You understand that you have been	25 their legs, get something to drink, or that

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<p style="text-align: right;">Page 10</p> <p>1 sort of thing; all right?</p> <p>2 A. Fine.</p> <p>3 Q. If you don't understand a question, just</p> <p>4 let me know. I'll try to repeat it or</p> <p>5 rephrase it. If you don't ask me to rephrase</p> <p>6 it or clarify, then the assumption is that</p> <p>7 you understand the question I asked. Okay?</p> <p>8 A. Yes.</p> <p>9 Q. Is there anyone in the room with you?</p> <p>10 A. I'm sorry? What?</p> <p>11 Q. Is there anyone in the room with you</p> <p>12 today?</p> <p>13 A. No.</p> <p>14 Q. I would ask that you turn off any</p> <p>15 electronic devices or put them on silent mode</p> <p>16 so they won't be distracting or interrupt</p> <p>17 you. If there's something important that</p> <p>18 you're expecting such as a call or a message,</p> <p>19 that, of course, is okay. Just let us know.</p> <p>20 Again, I just wanted to minimize the</p> <p>21 distractions, if possible. Okay?</p> <p>22 A. Okay.</p> <p>23 Q. And if you're relying on some document</p> <p>24 during the course of your deposition, I would</p> <p>25 ask that you identify that document. Any</p>	<p style="text-align: right;">Page 12</p> <p>1 or that would interfere with your ability to</p> <p>2 recall events other than the passage of time?</p> <p>3 A. No.</p> <p>4 Q. I think you mentioned earlier that</p> <p>5 you've testified under oath before; is that</p> <p>6 correct?</p> <p>7 A. Yes.</p> <p>8 Q. Can you tell me about when you have</p> <p>9 testified under oath.</p> <p>10 A. I'd been in law enforcement for almost</p> <p>11 40 years at the time of my retirement. I</p> <p>12 testified numerous times in court</p> <p>13 proceedings.</p> <p>14 Q. Prior to that, can you recall the last</p> <p>15 time you provided testimony under oath?</p> <p>16 A. It wasn't while I was a marshal, so it</p> <p>17 would have been prior to 2010. Probably</p> <p>18 about 2008 or '09, I would imagine, at my last</p> <p>19 trial.</p> <p>20 Q. Before your deposition today, have you</p> <p>21 or I ever met or spoken?</p> <p>22 A. No.</p> <p>23 Q. Could you tell me what you did to</p> <p>24 prepare for your deposition today.</p> <p>25 A. I met with -- yesterday I met with</p>
<p style="text-align: right;">Page 11</p> <p>1 question about that -- do you have any</p> <p>2 documents with you today?</p> <p>3 A. No.</p> <p>4 Q. Any questions about these instructions?</p> <p>5 A. No.</p> <p>6 Q. Court reporter swore you in. You</p> <p>7 understand you're obligated to tell the truth</p> <p>8 today; right?</p> <p>9 A. Yes.</p> <p>10 Q. Okay. And you understand that your</p> <p>11 deposition today has the same force and</p> <p>12 effect as if you were in front of the judge</p> <p>13 and jury?</p> <p>14 A. Yes.</p> <p>15 Q. You understand that portions of your</p> <p>16 videotaped deposition may be played before</p> <p>17 the Court at the trial of this matter?</p> <p>18 A. Yes.</p> <p>19 Q. And I assume, you know, you'll do the</p> <p>20 best you can to provide accurate testimony to</p> <p>21 the extent you can?</p> <p>22 A. Yes.</p> <p>23 Q. Are you on any type of medications or</p> <p>24 any type of -- any doctors told you you have</p> <p>25 any issues with respect to remembering things</p>	<p style="text-align: right;">Page 13</p> <p>1 two -- doing the same video process with</p> <p>2 Bill, with the US Attorney, and for a short</p> <p>3 amount of time with Ian.</p> <p>4 Q. Don't get into the content of those</p> <p>5 discussions, but can you tell me</p> <p>6 approximately how long that lasted.</p> <p>7 A. The whole process lasted approximately</p> <p>8 two hours or so.</p> <p>9 Q. Did you talk with anyone other than</p> <p>10 those attorneys about your deposition today?</p> <p>11 A. Not other than mentioning to my wife</p> <p>12 what I'd be doing today.</p> <p>13 Q. Fair enough. Did you review any</p> <p>14 documents prior to this deposition?</p> <p>15 A. The only one that I looked at yesterday</p> <p>16 was in reference to an email that I</p> <p>17 apparently had sent.</p> <p>18 Q. Okay. Did you do any research about the</p> <p>19 issues in this case?</p> <p>20 A. No.</p> <p>21 Q. We've requested and obtained some</p> <p>22 documents, some of which are emails, press</p> <p>23 releases, things of that nature through the</p> <p>24 formal discovery process from USA that have</p> <p>25 also been collected by the State of North</p>

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<p>1 Dakota. Outside of what was maintained by 2 the USA while you were an employee of USA, 3 did you keep any notes at home or on any 4 personal computers, devices, or things of 5 that nature?</p> <p>6 MR. SCARPATO: Objection, vague.</p> <p>7 THE WITNESS: No. No.</p> <p>8 BY MR. KERLIN:</p> <p>9 Q. Didn't take any notes at home or create 10 a timeline or anything like that?</p> <p>11 A. Not that I recall, no.</p> <p>12 Q. Okay. Are you aware of North Dakota's 13 case against the United States which was 14 filed under the federal tort claims act that 15 involves \$38,000,000 in damages North Dakota 16 seeks as a result of the US Army Corps and 17 other federal officials' actions and 18 inactions associated with protest against the 19 North Dakota Access Pipeline?</p> <p>20 A. Only what I've seen on the local news 21 reports or in the paper. Other than that, I 22 know no detail.</p> <p>23 Q. And it's that lawsuit for which we're 24 here today and that you're a fact witness 25 that we're taking your deposition for. So</p>	<p>Page 14</p> <p>1 A. I was born and raised in Massachusetts.</p> <p>2 Q. Did you move from Massachusetts at some 3 point?</p> <p>4 A. When I enlisted in the military, in the 5 Air Force, I moved away, ending up being 6 stationed in Minot, North Dakota.</p> <p>7 Q. How long were you stationed in Minot?</p> <p>8 A. I enlisted in 1976, I arrived in Minot 9 in 1977, and I was discharged from the 10 military in 1979.</p> <p>11 Q. What rank did you attain in the 12 Air Force?</p> <p>13 A. Airman First Class.</p> <p>14 Q. And then what was your assignment in the 15 Air Force?</p> <p>16 A. I was a member of the 91st Security 17 Police Squadron Tactical Neutralization Team, 18 which is equivalent of a civilian SWAT team.</p> <p>19 Q. Were you honorably discharged?</p> <p>20 A. Yes.</p> <p>21 Q. After you were honorably discharged, 22 what did you do next?</p> <p>23 A. I joined the Minot Police Department as 24 a police officer.</p> <p>25 Q. How long were you a police officer with</p>
<p>Page 15</p> <p>1 I'm curious, have you seen a copy of the 2 complaint that was filed by the State of 3 North Dakota in this case?</p> <p>4 A. No.</p> <p>5 Q. Have you seen the US District Court's 6 denial of a motion to dismiss the case that 7 was filed by the US?</p> <p>8 A. No.</p> <p>9 Q. Okay. And so you haven't seen the order 10 that the court issued denying that motion and 11 allowing the case to proceed?</p> <p>12 A. No.</p> <p>13 Q. Are you aware of the court's order that 14 compelled discovery against certain federal 15 agencies and officials in addition to corps 16 witnesses?</p> <p>17 A. No.</p> <p>18 Q. And then are you aware of the United 19 States District Court denied a motion for for 20 partial summary judgment that was entered by 21 the United States. Have you seen that order?</p> <p>22 A. No.</p> <p>23 Q. I want to talk to you a little bit about 24 your background and your education. Could 25 you tell me where you're originally from.</p>	<p>Page 17</p> <p>1 the Minot Police Department?</p> <p>2 A. Two years. Approximately two years.</p> <p>3 Q. And what did you -- what was your next 4 employment?</p> <p>5 A. I switched to the Ward County Sheriff's 6 Department mainly because I could work nights 7 and go to college during the day.</p> <p>8 Q. Is that something that you did? Did you 9 attend college?</p> <p>10 A. I did.</p> <p>11 Q. And what college did you attend?</p> <p>12 A. Minot State University.</p> <p>13 Q. Did you receive any type of a degree?</p> <p>14 A. Bachelor's degree.</p> <p>15 Q. What was your focus of study?</p> <p>16 A. Criminal justice.</p> <p>17 Q. When did you receive that?</p> <p>18 A. 1983.</p> <p>19 Q. And then after -- did you continue to 20 work at the -- in the sheriff's department 21 for Ward County?</p> <p>22 A. I did.</p> <p>23 Q. And when did you leave the sheriff's 24 department?</p> <p>25 A. You're trying my memory, but somewhere</p>

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<p style="text-align: right;">Page 18</p> <p>1 around 1985.</p> <p>2 Q. What did you do next?</p> <p>3 A. I moved to the state of New Hampshire</p> <p>4 and worked for the Nashua City Police</p> <p>5 Department.</p> <p>6 Q. How long were you with the city police</p> <p>7 department?</p> <p>8 A. Two years.</p> <p>9 Q. What did you do next?</p> <p>10 A. I was hired by the State of</p> <p>11 North Dakota, the division of criminal</p> <p>12 investigation, under the direction of the</p> <p>13 attorney general.</p> <p>14 Q. And how long did you work for the State</p> <p>15 of North Dakota in the criminal</p> <p>16 investigations division?</p> <p>17 A. Until 1989, when I was -- went to the</p> <p>18 federal level, worked for the office of</p> <p>19 inspector general for USDA, and I did that</p> <p>20 until 2010, when I was appointed by President</p> <p>21 Obama as a US Marshal.</p> <p>22 Q. How long did you serve as the US Marshal</p> <p>23 for North Dakota?</p> <p>24 A. 2010 until December, end of December of</p> <p>25 2016, at the end of President Obama's term.</p>	<p style="text-align: right;">Page 20</p> <p>1 involving program fraud with USDA programs.</p> <p>2 Q. Before I forget to ask, do you have any</p> <p>3 certificates or licenses?</p> <p>4 A. I'm not sure if I understand what you</p> <p>5 mean. Such as what?</p> <p>6 Q. Sure. Well, I mean, I'm just wondering</p> <p>7 if you have any particular certifications</p> <p>8 that would be applicable, and I'm not sure</p> <p>9 what those might be in law enforcement, or</p> <p>10 are you a member of any professional</p> <p>11 organizations, or were you when you were in</p> <p>12 law enforcement?</p> <p>13 A. I was a member of the North Dakota Peace</p> <p>14 Officers Association. Other than that, no.</p> <p>15 Q. I forgot to ask this earlier. Where are</p> <p>16 you located today for this deposition?</p> <p>17 A. I'm at the United States Attorney's</p> <p>18 office in Bismarck, North Dakota.</p> <p>19 Q. And where do you currently live?</p> <p>20 A. Bismarck, North Dakota.</p> <p>21 Q. Did you ever receive any type of</p> <p>22 demerits or disciplinary action during your</p> <p>23 course either in service in the Air Force or</p> <p>24 in any of your law enforcement roles?</p> <p>25 A. No.</p>
<p style="text-align: right;">Page 19</p> <p>1 Q. Have you -- have you returned to work in</p> <p>2 any form after your retirement December of</p> <p>3 2016?</p> <p>4 A. Work at the golf course fixing the</p> <p>5 greens. And I substitute taught in the</p> <p>6 school system occasionally for two years</p> <p>7 right after I retired.</p> <p>8 Q. So from 1976 through 2016, is it</p> <p>9 accurate to say that you served continuously</p> <p>10 in law enforcement?</p> <p>11 A. Yes.</p> <p>12 Q. I want to talk to you a little bit about</p> <p>13 the work that you did for the State of</p> <p>14 North Dakota in the criminal investigations</p> <p>15 division. Can you tell me a little bit about</p> <p>16 the types of work that you were involved</p> <p>17 with.</p> <p>18 A. Felonious investigations, criminal</p> <p>19 investigations, ranging from thefts to</p> <p>20 homicide.</p> <p>21 Q. And then when you started working for</p> <p>22 the federal office of inspector general, what</p> <p>23 types of things were you working on primarily</p> <p>24 there?</p> <p>25 A. Mainly major white collar crimes</p>	<p style="text-align: right;">Page 21</p> <p>1 Q. I want to talk to you a little bit more</p> <p>2 about the time that you served as a United</p> <p>3 States Marshal in North Dakota. In order to</p> <p>4 become a marshal, a US Marshal for the State</p> <p>5 of North Dakota, was there a confirmation</p> <p>6 process?</p> <p>7 A. Yes.</p> <p>8 Q. Okay. Can you tell me a little bit</p> <p>9 about how that worked.</p> <p>10 A. It started with a selection by the</p> <p>11 congressional staff and then a confirmation</p> <p>12 process leading up, you know, through the</p> <p>13 senate, being confirmed by the senate, and</p> <p>14 then on to appointment by the president.</p> <p>15 Q. Is there a marshal that's assigned or</p> <p>16 appointed and then confirmed for each state?</p> <p>17 A. Each judicial district in the country.</p> <p>18 There's 94. So North Dakota is one district,</p> <p>19 so there's one marshal.</p> <p>20 Q. Do you have an idea of how many were</p> <p>21 potentially considered for US Marshal of</p> <p>22 North Dakota at the time that you were</p> <p>23 selected?</p> <p>24 A. No, I don't.</p> <p>25 Q. Is it accurate to say that it's a pretty</p>

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<p>1 select group of law enforcement professionals 2 that are, I would think, had exhibited 3 exemplary service and excellent 4 qualifications?</p> <p>5 MR. SCARPATO: Objection, vague. 6 BY MR. KERLIN:</p> <p>7 Q. I'll ask it this way. How do you think 8 you got selected by President Obama to be the 9 United States Marshal -- or put up for 10 confirmation for United States Marshal for 11 North Dakota?</p> <p>12 A. I wasn't selected by President Obama the 13 way you termed it. I was appointed by 14 President Obama. I was selected by Senators 15 Dorgan, Conrad, and Pomeroy.</p> <p>16 Recommendations, I'm sure they did background 17 checks, checked around, and found out once I 18 was interested, that I would be the best 19 choice. That's an assumption on my part, but 20 I don't know what else to tell you.</p> <p>21 Q. And then when you went through the 22 confirmation process, did you have to appear 23 in front of a senate committee?</p> <p>24 A. No.</p> <p>25 Q. Can you tell me how that process worked.</p>	<p style="text-align: right;">Page 22</p> <p>1 law enforcement agencies such as the FBI, 2 department of justice? 3 A. Yes. 4 Q. Can you give us an idea of how many 5 people or individuals that you supervised or 6 were under your direction as US Marshal. 7 A. I think at the time I had 19 deputies, 8 maybe six or seven administrative staff 9 people, court security staff, which privately 10 contracted but generally under our 11 supervision of, I don't know how many guys 12 they had, 20 or so, maybe more. 13 Q. And then your jurisdiction as US 14 Marshal, it would extend for that entire 15 judicial district which is the entire state 16 of North Dakota; is that correct? 17 A. Yes. 18 Q. Was there anyone in particular during 19 the course, when you were US Marshal, that 20 you reported to? 21 A. Director of the marshal service would be 22 the only one that the marshals would report 23 to. 24 Q. So if you had an issue that arose, for 25 instance, if you thought you needed more</p>
<p>1 A. I don't know. I'm not very political. 2 Q. Well, I guess what I'm wondering is, you 3 did have to go through a confirmation 4 process; correct? 5 A. They were provided the information, the 6 application process, the background check by 7 the FBI, and I guess they voted. I wasn't 8 there. I don't know.</p> <p>9 Q. Ultimately you were one of those 97 that 10 was selected to be the marshal for a judicial 11 district; right? 12 A. 94. 13 Q. 94. Thank you for that clarification. 14 A. 94, not 97. 15 Q. Tell me what you were responsible for as 16 the United States Marshal for North Dakota. 17 A. Supervision of judicial district 18 personnel, the deputies, the administration, 19 the court security staff, safety of the 20 judges, security of the judges in the 21 courtroom and the court family. I had 22 supervision of everything the deputies did. 23 There would serve warrants, civil process. 24 Q. In your role as US Marshal, did you have 25 the ability to interface with other federal</p>	<p style="text-align: right;">Page 23</p> <p>1 resources, who would you reach out to? 2 A. It would be the deputy director. 3 Q. And during the time period of 2010 to 4 2016, do you recall who that person was? 5 A. No, I don't. I can't recall his name. 6 Q. If it comes to you, just let me know. 7 Did you ever make that request? 8 Did you ever ask for resources? 9 A. Yes.</p> <p style="text-align: right;">Page 25</p> <p>10 Q. And I'll come back to that a 11 later in your deposition.</p> <p>12 In addition to the deputy director 13 of the US Marshal Service, is there anyone 14 else to whom you might direct a request for 15 additional resources if something arose in 16 your jurisdiction, your law enforcement 17 jurisdiction? 18 A. There were times when the deputy 19 director, if I had a question in regards to 20 additional personnel and that type of thing, 21 he might direct me to somebody that answered 22 to him that specialized in that particular 23 subject. But I wouldn't go directly to that 24 person without first contacting the deputy 25 director.</p>

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401-402

25:8-25  
401-402

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<p style="text-align: right;">Page 26</p> <p>1 Q. Did you ever serve as a liaison when you 2 were US Marshal with respect to any other 3 federal agencies? Was that ever part of what 4 you did?</p> <p>5 A. No. If I understand your question 6 correctly.</p> <p>7 Q. Did you ever, as US Marshal, did you 8 ever have reason to interact with any of the 9 tribes in North Dakota?</p> <p>10 A. Yes.</p> <p>11 Q. Can you tell me the types of interaction 12 you would have with tribes, and right now I'm 13 not talking about the protests.</p> <p>14 A. I'm sorry. You're not talking about 15 what?</p> <p>16 Q. The protests. Anything, if you can give 17 me an idea of other interactions you might 18 have with the tribe as US Marshal.</p> <p>19 A. Generally meetings, come to an 20 understanding as to what we would do on the 21 tribal land, in the reservations, when we had 22 federal warrants to serve, what our role 23 would be on the reservation and how we would 24 interact.</p> <p>25 Q. So are you familiar with -- I'm going to</p>	<p style="text-align: right;">Page 28</p> <p>1 it on the news or if I spoke with the sheriff 2 in Morton County. Not sure.</p> <p>3 Q. At some point did you learn that the 4 protestors were located on US Army Corps of 5 Engineer land?</p> <p>6 A. Yes.</p> <p>7 MR. SCARPATO: Object, vague.</p> <p>8 BY MR. KERLIN:</p> <p>9 Q. Do you recall about when that was?</p> <p>10 A. No, I don't. It would have been the 11 same time period as the rest of it, though.</p> <p>12 Q. Okay. And I have some documents that 13 may be helpful with respect to the particular 14 dates, but I wanted to kind of get your 15 understanding before we went over those. Okay?</p> <p>17 Did you at some point learn that 18 the protestors were camping overnight on 19 corps land?</p> <p>20 A. Yes.</p> <p>21 Q. To your knowledge, were these protestors 22 sleeping in designated campgrounds or areas 23 that were designated as campgrounds by the 24 corps?</p> <p>25 A. I believe they were not, but I'm not</p>
<p style="text-align: right;">Page 27</p> <p>1 refer to as the Dakota Access Pipeline or 2 DAPL. If I use the term DAPL, do you 3 understand --</p> <p>4 A. Have I heard the term? I have heard the 5 term, yes.</p> <p>6 Q. And when I say DAPL, I'm referring to 7 the pipeline, Dakota Access Pipeline, the one 8 that was there in North Dakota. Okay?</p> <p>9 A. Yes.</p> <p>10 Q. During the time period that you were a 11 US Marshal, did you hear about protests 12 regarding the Dakota Access Pipeline or DAPL?</p> <p>13 A. Yes.</p> <p>14 Q. When did you first hear about the 15 protests?</p> <p>16 A. Summer of 2016, and that's when the 17 protests were starting.</p> <p>18 Q. What did you hear about it when it first 19 started?</p> <p>20 A. I don't know the specific date.</p> <p>21 Q. And what did you hear about the 22 protests? In other words, how did you come 23 to find out that there were, in fact, 24 protests?</p> <p>25 A. I don't know. I don't know if I heard</p>	<p style="text-align: right;">Page 29</p> <p>1 sure about that.</p> <p>2 Q. And sounds like, with the protests, did 3 you have -- well, let me ask this. How did 4 you get involved in the response to the 5 protests?</p> <p>6 MR. SCARPATO: Objection, assumes 7 facts not in evidence.</p> <p>8 MR. KERLIN: Okay.</p> <p>9 BY MR. KERLIN:</p> <p>10 Q. Mr. Ward, at some point, did you get 11 involved in the law enforcement response to 12 the protests?</p> <p>13 A. Yes and no. I did not get involved in 14 responding to the scene. I got involved in 15 management meetings at the command center.</p> <p>16 Q. Thank you for that clarification.</p> <p>17 Can you recall about when you first 18 started attending the meetings at the command 19 center.</p> <p>20 A. I don't recall the exact date, but it 21 was at the onset of command center itself.</p> <p>22 Q. And where was that command center 23 located?</p> <p>24 A. The Morton County Sheriff's Department 25 building.</p>

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<p style="text-align: right;">Page 30</p> <p>1 Q. And is Sheriff Kirchmeier, is he the 2 sheriff for Morton County?</p> <p>3 A. Yes.</p> <p>4 Q. I'm just trying to understand how you 5 came to be a part of that. Were you invited 6 to be a part of that, or did you ask to be a 7 part of being able to attend the command 8 center and hear what was going on with 9 respect to the response?</p> <p>10 A. I don't recall the particular 11 conversation, but Sheriff Kirchmeier and I 12 spoke quite often, and I'm sure at that point 13 it was brought up, and I attended some of the 14 meetings.</p> <p>15 Q. From the onset of when you first 16 attended the command center, were you 17 provided access to that command center if you 18 wanted to attend through the end of your 19 duration as a US Marshal?</p> <p>20 A. Yes, but I did not attend the majority 21 of the command center leadership meetings.</p> <p>22 Q. Okay.</p> <p>23 A. I did, to begin with, but not throughout 24 the whole process.</p> <p>25 Q. Did your attendance change at some</p>	<p style="text-align: right;">Page 32</p> <p>1 Q. Were you given a reason for the denial 2 of assistance by -- well, before I get there, 3 let me ask. To whom did you make that 4 request or requests? It sounded like you 5 made more than one request; is that accurate?</p> <p>6 A. Yes.</p> <p>7 Q. And did you make that request to the 8 deputy director?</p> <p>9 A. Yes.</p> <p>10 Q. Anyone else you made that request to?</p> <p>11 A. I had discussions with the office of 12 general counsel, at the direction of the 13 deputy director, that contacted me, and we 14 discussed it, and I was denied again.</p> <p>15 Q. Were you given a reason?</p> <p>16 MR. SCARPATO: I'd just object for 17 attorney-client privilege.</p> <p>18 Mr. Ward, to the extent your 19 response would require discussion of 20 communications with marshal service OGC, 21 instruct you not to answer. But if you can 22 answer without reference to those 23 discussions, you can go ahead.</p> <p>24 THE WITNESS: The question remains 25 is was I given a reason why?</p>
<p style="text-align: right;">Page 31</p> <p>1 point?</p> <p>2 A. Yes.</p> <p>3 Q. Do you recall about when that would have 4 been?</p> <p>5 A. I guess the best term I could say is 6 about halfway through until I retired. So 7 maybe November, October, late October, early 8 November.</p> <p>9 Q. And was there a reason why your 10 attendance changed?</p> <p>11 A. The request that was made by the 12 sheriffs at my early onset of attending the 13 meetings pertained to receiving assistance 14 from deputy marshals in the marshal service. 15 When I requested that to our headquarters, I 16 was denied. There were numerous requests but 17 a continual denial.</p> <p>18 Once that denial was understood by 19 the sheriffs, the point of me being there was 20 just an added person in a small room. They 21 had adequate leadership amongst the sheriffs 22 throughout the state, chiefs of police. 23 Unfortunately, they didn't -- I couldn't 24 provide them anything. No point in me 25 attending anymore.</p>	<p style="text-align: right;">Page 33</p> <p>1 BY MR. KERLIN:</p> <p>2 Q. If it won't invade discussions that you 3 had with the office of general counsel.</p> <p>4 MR. KERLIN: As I understood it, 5 Mr. Scarpato, is that fair?</p> <p>6 MR. SCARPATO: That is fair. Thank 7 you, Paul.</p> <p>8 THE WITNESS: I think you need to 9 repeat that if you would, please</p> <p>10 BY MR. KERLIN: <span style="background-color: red; color: white; padding: 2px;">33:11-23 401-402</span></p> <p>11 Q. Sure. Were you given a reason why 12 assistance was continually denied after you 13 had requested it? And, again, I don't want 14 to know about communications that you had 15 with them. That would be privileged.</p> <p>16 A. No. If I'm not to discuss what OGC told 17 me, then no, I don't have a reason.</p> <p>18 Q. Back to your attendance at the command 19 center, especially early on, were you ever 20 denied access to information that the North 21 Dakota law enforcement had regarding 22 developments at the protest?</p> <p>23 A. No. Not that I know of.</p> <p>24 Q. Okay. Did North Dakota provide you 25 access to anything that you would want to</p>

31:9-32:14 401-402

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**33:24-35:3 401-402**

1 see, or if you had questions about things, so Page 34  
 2 it's really -- my question is, were they  
 3 sharing information with you if you asked?  
 4 A. Yes. Mostly verbally because I was  
 5 standing there speaking to the sheriffs. No  
 6 one ever hesitated in discussing things with  
 7 me.  
 8 Q. But it wasn't like they said, well,  
 9 we're North Dakota, so you all should be  
 10 involved, and we're not going to let you in  
 11 here to hear what's going on; right?  
 12 A. That's not the relationship we ever had  
 13 in law enforcement here in North Dakota.  
 14 Q. Would you describe the relationship you  
 15 had with law enforcement in North Dakota.  
 16 A. Very cooperative, to the best of our  
 17 ability, very cooperative. There was never a  
 18 time when, if I needed help from the Bismarck  
 19 Police Department, that the chief of police  
 20 wouldn't provide that help. There was never  
 21 a time that if they needed assistance from  
 22 us, that we wouldn't provide it. Never a  
 23 time when, if I was traveling in North  
 24 Dakota, and I saw a trooper on the side of  
 25 the road that needed help, that I wouldn't

1 duties still running the district, had to Page 36  
 2 attend meetings in Fargo, where the main  
 3 office was, so I did have other travel  
 4 involved. Two to three times per week.  
 5 Q. Did you see or have access to drone and  
 6 plane footage and pictures that were  
 7 available in the command center?  
 8 A. Yes.  
 9 Q. Did you ever observe protestors that  
 10 were on corps land then leave corps land and  
 11 then protest at a site off of corps land?  
 12 MR. SCARPATO: Objection,  
 13 foundation, lack of personal knowledge.  
 14 THE WITNESS: I guess I'm not --  
 15 Bill, maybe you can advise me. I'm  
 16 not sure if I'm supposed to answer the  
 17 question once you object or just continue on.  
 18 MR. SCARPATO: I appreciate the  
 19 clarification, Mr. Ward. Unless I instruct  
 20 you not to answer, you should answer the  
 21 question. So you can go ahead and answer  
 22 this one to the best of your ability, subject  
 23 to the noted objection.  
 24 THE WITNESS: I do believe I did  
 25 see some video when they left corps land or

**35:4-8  
401-402; 602**

**35:9-11  
401-402; 602;  
701/702 calls for  
legal concl, expert  
test.**

1 stop and help them. Or, conversely, that Page 35  
 2 they wouldn't stop and help us. That's just  
 3 how it was. It was a brotherhood.  
 4 Q. With respect to the protests, do you  
 5 think that the federal government provided  
 6 the law enforcement assistance that was  
 7 requested by law enforcement of North Dakota?  
 8 A. No.  
 9 Q. Do you think that's something they  
 10 should have done?  
 11 A. Yes.  
 12 Q. At least early on -- and so I  
 13 understand, when we were talking earlier that  
 14 there was a change in your attendance at the  
 15 command center, I believe you said around  
 16 October-November, you said about halfway  
 17 through, which would have been around, I  
 18 think, October-November; does that sound  
 19 right?  
 20 A. Yes.  
 21 Q. Prior to that time period, can you give  
 22 us an idea about how often you'd attend the  
 23 command center.  
 24 A. Approximately two to three times per  
 25 week with the understanding that I had other

1 incidents that were off corps land. Page 37  
 2 BY MR. KERLIN:  
 3 Q. When you saw some of that footage, in  
 4 those photographs, would they be using the  
 5 corps land as a base of operation, in  
 6 essence?  
 7 MR. SCARPATO: Objection, vague.  
 8 THE WITNESS: I don't know.  
 9 BY MR. KERLIN:  
 10 Q. But it was your understanding that they  
 11 were camping out on the corps land; is that  
 12 correct?  
 13 MR. SCARPATO: Objection, misstates  
 14 the testimony.  
 15 THE WITNESS: Could you repeat the  
 16 question, please.  
 17 BY MR. KERLIN:  
 18 Q. Sure. At some point did you become  
 19 aware that protestors were camping out on US  
 20 Army Corps of Engineers land?  
 21 MR. SCARPATO: Objection, lacks  
 22 personal knowledge.  
 23 THE WITNESS: Yes.  
 24 BY MR. KERLIN:  
 25 Q. It sounds like you had personal

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<p style="text-align: right;">Page 38</p> <p>1 knowledge of that; is that correct, Mr. Ward?</p> <p>2 A. Yes.</p> <p>3 Q. You saw them camping out on corps land;</p> <p>4 right?</p> <p>5 A. Not personally. I wasn't at the scene,</p> <p>6 but the video and the things that were</p> <p>7 provided to the command center.</p> <p>8 Q. Did you also have an understanding that,</p> <p>9 after some of the protestors would go out</p> <p>10 either into the community or to the area</p> <p>11 where DAPL workers were working, they would</p> <p>12 then return back to corps land, where they</p> <p>13 would stay overnight?</p> <p>14 A. Please repeat that.</p> <p>15 Q. Sure. With respect to the protestors,</p> <p>16 did you have an understanding or become aware</p> <p>17 that protestors would be on corps land and</p> <p>18 then leave corps land and go somewhere else,</p> <p>19 either out into the community or to areas</p> <p>20 where the workers were working or trying to</p> <p>21 work for the pipeline, and then protest in</p> <p>22 those areas and then return back to corps</p> <p>23 land at the end of the day or overnight?</p> <p>24 MR. SCARPATO: Objection, vague and</p> <p>25 compound.</p>	<p style="text-align: right;">Page 40</p> <p>1 Q. Okay. Given the size of the protest, I</p> <p>2 mean, is it your understanding that the</p> <p>3 protest grew over time and eventually reached</p> <p>4 many thousands of people?</p> <p>5 A. Yes.</p> <p>6 Q. Okay. For instance, at the federal</p> <p>7 courthouse, can you give us an idea of</p> <p>8 approximately how many people there would</p> <p>9 have been that showed up to protest.</p> <p>10 A. However many people it would take to be</p> <p>11 shoulder to shoulder to take up a full city</p> <p>12 block. I don't know how many people that is.</p> <p>13 A lot.</p> <p>14 Q. Given that the resources that you had at</p> <p>15 your disposal, 19 deputies, were you able to</p> <p>16 keep the federal courthouse secure, or did</p> <p>17 you require other assistance to do so?</p> <p>18 A. 19 deputies consisted of all the</p> <p>19 deputies I had in the district. That</p> <p>20 included Fargo, Grand Forks, Minot, and</p> <p>21 Bismarck. Bismarck was maybe five. If it</p> <p>22 was us five plus me against hundreds, if not</p> <p>23 thousands, we would be whupped, even with the</p> <p>24 assistance of the Bismarck Police Department,</p> <p>25 which we did have. When myself and one of my</p>
<p style="text-align: right;">Page 39</p> <p>1 THE WITNESS: Yes, I was aware of</p> <p>2 that. I was aware they were in pipeline</p> <p>3 areas, and I was aware when of it came to the</p> <p>4 federal courthouse in Bismarck. They were</p> <p>5 right outside the front door.</p> <p>6 BY MR. KERLIN:</p> <p>7 Q. When those things happened, when those</p> <p>8 protestors showed up, to use your example at</p> <p>9 the federal courthouse, did that require a</p> <p>10 law enforcement response?</p> <p>11 A. Oh, yes.</p> <p>12 Q. And simply for public safety; correct?</p> <p>13 A. For what?</p> <p>14 Q. For public safety and to control the</p> <p>15 crowd. I mean, in other words, once these</p> <p>16 protestors arrived at the courthouse, there</p> <p>17 has to be some type of law enforcement</p> <p>18 response, doesn't there?</p> <p>19 A. Yes, there was.</p> <p>20 Q. And so in your experience in 40 years in</p> <p>21 law enforcement -- in law enforcement, some</p> <p>22 form of law enforcement response was required</p> <p>23 because the protestors had shown up at the</p> <p>24 courthouse; right?</p> <p>25 A. Yes.</p>	<p style="text-align: right;">Page 41</p> <p>1 deputies went out to spoke to the commander</p> <p>2 at the Bismarck Police Department, and I</p> <p>3 don't remember who it was, but he looked at</p> <p>4 me, and he said, Marshal, if they want your</p> <p>5 building, they're going to take it. We can't</p> <p>6 stop them. That's how many there were. So</p> <p>7 with the assistance of the Bismarck Police</p> <p>8 Department and the deputies I had and the</p> <p>9 court security stuff, we were outnumbered 20</p> <p>10 to one. No, more than that, 50 to one.</p> <p>11 Nothing we could have done.</p> <p>12 Q. And the Bismarck Police Department,</p> <p>13 though, they were willing to provide the</p> <p>14 support that they could; is that accurate?</p> <p>15 A. Yes. To the best of their ability, yes.</p> <p>16 Q. And were they, along with you and the</p> <p>17 other deputy marshals, able to keep the</p> <p>18 courthouse safe?</p> <p>19 A. Mainly because it was, although loud,</p> <p>20 the protest was peaceful.</p> <p>21 Q. Were you aware of whether coming to the</p> <p>22 assistance of the US Marshals and helping to</p> <p>23 keep secure the federal courthouse, that tha</p> <p>24 was a significant -- that that required a</p> <p>25 significant amount of resources from the</p>

38:25-39:5  
602; 611 vague and compound

41:21-42:8  
602; 611 vague

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<p>1 Bismarck Police Department?</p> <p>2 MR. SCARPATO: Objection, vague,</p> <p>3 lack of personal knowledge.</p> <p>4 THE WITNESS: Significant in the</p> <p>5 fact that they gave me all they had. They</p> <p>6 still had to maintain peace within the city,</p> <p>7 but whatever was left over, they gave me. So</p> <p>8 yes, that's significant.</p> <p>9 BY MR. KERLIN:</p> <p>10 Q. You also mentioned that the</p> <p>11 protestors -- you were aware that the</p> <p>12 protestors had mobilized and gone to other</p> <p>13 areas. We talked about the federal</p> <p>14 courthouse, then also at the construction</p> <p>15 area?</p> <p>16 A. Yes. And I need to clarify that because</p> <p>17 I'm not 100 percent sure how I became aware</p> <p>18 of that.</p> <p>19 Q. Uh-huh.</p> <p>20 A. I may have seen it on the news at night.</p> <p>21 I may have seen it on the drone video, or</p> <p>22 they may have told me at the command center,</p> <p>23 but I was aware of it, yes.</p> <p>24 Q. As a law enforcement professional with</p> <p>25 40 years of service and experience, when the</p>	<p>Page 42</p> <p>1 A. Not that I know of.</p> <p>2 Q. There weren't any other federal agencies</p> <p>3 that coordinated with you as the US Marshal</p> <p>4 that brought up, hey, you know, maybe we</p> <p>5 should remove these protestors from corps</p> <p>6 land, they're causing problems here, nothing</p> <p>7 like that?</p> <p>8 A. No.</p> <p>9 Q. Do you know why there wasn't a federal</p> <p>10 law enforcement response to try and remove</p> <p>11 the violent protestors from corps land?</p> <p>12 MR. SCARPATO: Objection, vague.</p> <p>13 THE WITNESS: I would have to</p> <p>14 assume, if there was a request made by any</p> <p>15 other agency other than the marshal service,</p> <p>16 that they received the same declination that</p> <p>17 I received. I don't know that. I just know</p> <p>18 that no one else could respond.</p> <p>19 BY MR. KERLIN:</p> <p>20 Q. Do you know why federal law enforcement</p> <p>21 didn't do more to try and prevent what was</p> <p>22 going on on US Army Corps of Engineers land?</p> <p>23 A. I don't know, no. I know that I --</p> <p>24 prior to the influx of protestors, to a</p> <p>25 magnificent number of people, there was no</p>
<p>43:5-15</p> <p>602</p>	<p>Page 43</p> <p>1 protestors showed up at the construction</p> <p>2 site, did that require law enforcement</p> <p>3 response and presence?</p> <p>4 A. Yes, it certainly did.</p> <p>5 Q. With respect to that area, do you know</p> <p>6 who was the law enforcement -- the chief law</p> <p>7 enforcement officer that was in charge of</p> <p>8 that response?</p> <p>9 A. I don't know.</p> <p>10 Q. Would that have fallen --</p> <p>11 A. It ultimately would have been the</p> <p>12 command center, but I don't know who answered</p> <p>13 to the command center at the scene.</p> <p>14 Q. Would that have been in Morton County?</p> <p>15 A. I believe so, but I'm not sure.</p> <p>16 Q. After the protests and demonstrations at</p> <p>17 the federal courthouse, those protestors then</p> <p>18 went back to US Army Corps of Engineers land;</p> <p>19 is that correct?</p> <p>20 A. I don't know. They left Bismarck.</p> <p>21 That's all I know.</p> <p>22 Q. Was there any effort, to your knowledge,</p> <p>23 by any federal agency or law enforcement to</p> <p>24 remove protestors or to keep them from</p> <p>25 returning to corps land?</p>
	<p>Page 44</p> <p>1 request made through me, not at the early</p> <p>2 onset.</p> <p>3 Can I ask a request, please? I'd</p> <p>4 like to take a break, if I could, because I</p> <p>5 have diabetes, and I need to eat something</p> <p>6 quick because --</p> <p>7 MR. KERLIN: Thank you. You want</p> <p>8 to do a ten-minute break? Is that sufficient</p> <p>9 time?</p> <p>10 THE WITNESS: Ten minutes is fine.</p> <p>11 MR. KERLIN: Perfect. We'll go off</p> <p>12 the record.</p> <p>13 THE VIDEOGRAPHER: Off the record.</p> <p>14 Universal coordinated time is 1530. We're</p> <p>15 off the record.</p> <p>16 (Pause in proceedings)</p> <p>17 THE VIDEOGRAPHER: We're now back</p> <p>18 on the record. Universal coordinated time is</p> <p>19 1540.</p> <p>20 BY MR. KERLIN:</p> <p>21 Q. Mr. Ward, we're back on the record after</p> <p>22 a short break. Are you able to continue?</p> <p>23 A. Yes.</p> <p>24 Q. Okay. I want to talk to you a little</p> <p>25 bit about the command center that you</p>

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<p>1 mentioned. Can you tell me what that 2 consisted of.</p> <p>3 A. I didn't hear the beginning of your 4 question.</p> <p>5 Q. Sure. The command center, can you tell 6 us a little about what the command center was 7 that you had mentioned.</p> <p>8 A. Well, it was a large conference-type 9 room with individual stations set up with 10 commanders of the sheriff departments having 11 individual stations and then small meeting 12 rooms off to the sides of that large 13 conference room.</p> <p>14 Q. Was Sheriff Paul Laney one of those that 15 was at the command center?</p> <p>16 A. Yes.</p> <p>17 Q. Were there any other law enforcement 18 from the federal government or any agency in 19 addition to you that attended the command 20 center, to your knowledge?</p> <p>21 A. On occasion there were FBI agents in 22 supervision.</p> <p>23 Q. How often did those FBI agents attend?</p> <p>24 A. I don't know because I wasn't there at 25 each -- on each individual day, so I don't</p>	<p>Page 46</p> <p>1 taken and picking up where we left off last. 2 (Exhibit 311 marked)</p> <p>3 BY MR. KERLIN:</p> <p>4 Q. Can you see the document that we're 5 trying to display on the screen, Mr. Ward?</p> <p>6 A. Yes, I can see it.</p> <p>7 Q. Okay. It says for the "to" line, US 8 and-all. Would those be email -- was that, 9 like, a LISTSERV email account that you would 10 receive as well?</p> <p>11 A. Not unless it was forwarded to me.</p> <p>12 Q. Okay.</p> <p>13 A. I don't think I was.</p> <p>14 Q. The date of this email is August 28th, 15 2016. Do you see that?</p> <p>16 A. Yes.</p> <p>17 Q. And it says Chris Myers. Are you 18 familiar with Chris Myers?</p> <p>19 A. Yes.</p> <p>20 Q. Did you work with him when you were the 21 US Marshal for North Dakota?</p> <p>22 A. Yes. He was the United States Attorney 23 at the time.</p> <p>24 Q. The subject matter of this email is 25 update on the Dakota Access Pipeline and</p>
<p>1 know how often they were there.</p> <p>2 Q. What about any representatives from the 3 US Army Corps of Engineers? Were any of 4 those ever present?</p> <p>5 A. There was on occasion, yes, that I saw. 6 Like I said, I wasn't there for each day, so 7 I don't know.</p> <p>8 Q. With respect to the ones that you saw, 9 can you recall the names of any of those 10 individuals?</p> <p>11 A. No, I don't know his name.</p> <p>12 Q. Of the times that you attended, were the 13 representatives from the Army corps, were 14 they typically there, or were they only there 15 once or twice? Can you give us an idea about 16 the frequency when you attended that they 17 would be present.</p> <p>18 A. I don't know.</p> <p>19 Q. Okay. I'd like to --</p> <p>20 MR. KERLIN: Mr. Diaz, if you could 21 bring up Exhibit 311.</p> <p>22 For the record, we're going to mark 23 this as Exhibit 311 with continued numbering 24 deposition exhibits on behalf of the 25 witnesses that State of North Dakota has</p>	<p>Page 47</p> <p>1 protest matter. Do you see that?</p> <p>2 A. Yes.</p> <p>3 Q. Do you recall that with respect to when 4 the protests started that they would have 5 started well before this date, August 28th, 6 2016?</p> <p>7 MR. SCARPATO: Objection, vague. 8 THE WITNESS: I'm sorry? You'd 9 have to repeat that question, please.</p> <p>10 BY MR. KERLIN:</p> <p>11 Q. Sure. The subject is an update on the 12 Dakota Access Pipeline and protest matter, 13 and it's dated August 28th, 2016. To your 14 knowledge, did the protests regarding the 15 Dakota Access Pipeline start prior to that 16 date?</p> <p>17 A. I'm not sure when it started. I don't 18 know when.</p> <p>19 Q. In the first paragraph, it says that we 20 met with pipeline company officials and 21 requested they delay their work until the 22 week of September 14th. Do you see that?</p> <p>23 A. Yes.</p> <p>24 Q. Do you recall attending a meeting with 25 representatives from the company that was</p>

46:20-49:18  
602

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49:24-51:5 401-402

51:6-14  
401-402; 403; 611  
vague

<p style="text-align: right;">Page 50</p> <p>1 building the Dakota Access Pipeline?</p> <p>2 A. Yes, I do.</p> <p>3 Q. If we go to the second paragraph, about</p> <p>4 three lines down it says, Paul Ward was the</p> <p>5 other federal partner in the meeting, and he</p> <p>6 was very frustrated too. Do you recall that?</p> <p>7 Do you recall going to the meeting?</p> <p>8 A. I don't recall that they were present in</p> <p>9 the room or if it was a video meeting, but I</p> <p>10 do recall some type of meeting.</p> <p>11 Q. I'm going to go up, I kind of skipped</p> <p>12 ahead a little bit, but I just want to</p> <p>13 establish, you do recall being present in</p> <p>14 person or by video with some member of the</p> <p>15 company; correct?</p> <p>16 A. Yes.</p> <p>17 Q. The prior sentence it says, I was very</p> <p>18 stern in my approach, and it even got</p> <p>19 personal when the company claimed that</p> <p>20 federal law enforcement was "weak" and should</p> <p>21 be prosecuting everyone for traveling in</p> <p>22 interstate commerce for breaking the law.</p> <p>23 Do you see that?</p> <p>24 A. Yes.</p> <p>25 Q. Do you agree that the law enforcement</p>	<p style="text-align: right;">Page 52</p> <p>wrote this email, but I don't recall.</p> <p>Q. And then you all started to walk out and then stopped and then continued the meeting. Does that seem familiar at all?</p> <p>A. Not really. You have to understand this is almost six years ago for me. I've done a lot of things -- I've done a lot of things in my life since the last six years that have overtaken my thought process other than this stuff. This brings back a recollection, but I don't recall specifically anybody walking out, or maybe Chris stood up or someone did. I don't know.</p> <p>Q. Understand. And again, if you don't recall, that's a perfectly fine answer too.</p> <p>A. Okay.</p> <p>Q. This is my opportunity to ask you questions about it and understand the significant factors.</p> <p>(Exhibit 312 marked)</p> <p>21 MR. KERLIN: I'd like to go to 312.</p> <p>22 This is an email date September 5th of 2016,</p> <p>23 so about a week later.</p> <p>24 BY MR. KERLIN:</p> <p>25 Q. Do you see that?</p>
<p style="text-align: right;">Page 51</p> <p>1 response when the protests initially started</p> <p>2 was weak, that the federal response was weak?</p> <p>3 A. Weak wasn't my term. I didn't say that.</p> <p>4 Somebody from, apparently, the company said</p> <p>5 that.</p> <p>6 Q. But do you agree with that? Do you</p> <p>7 think it was a weak federal law enforcement</p> <p>8 response?</p> <p>9 MR. SCARPATO: Objection, vague.</p> <p>10 THE WITNESS: I wouldn't say it was</p> <p>11 weak.</p> <p>12 BY MR. KERLIN:</p> <p>13 Q. How would you characterize it?</p> <p>14 A. Nonexistent.</p> <p>15 Q. Then if we go to the -- that sentence we</p> <p>16 have highlighted, we were the bad cops in</p> <p>17 this meeting for sure, and in the middle we</p> <p>18 started to simply walk out. Do you see that?</p> <p>19 A. Yes.</p> <p>20 Q. Do you recall that occurring in the</p> <p>21 meeting that it had kind of reached a level</p> <p>22 of tension that you and the other attendee,</p> <p>23 I'm assuming it's Mr. Myers, was he with you</p> <p>24 at the meeting, or do you recall?</p> <p>25 A. I don't recall. I assume so since he</p>	<p style="text-align: right;">Page 53</p> <p>1 A. Yes.</p> <p>2 Q. From James Thomas. Do you know who</p> <p>3 James Thomas is?</p> <p>4 A. Yes, I do.</p> <p>5 Q. And he's an assistant US Attorney in</p> <p>6 Bismarck at the time; correct?</p> <p>7 A. Yes.</p> <p>8 Q. It says, one of the recipients on the</p> <p>9 email is Paul Ward, do you see that?</p> <p>10 A. Yes.</p> <p>11 Q. Subject is DAPL corps notes of LE</p> <p>12 meeting with tribal leaders, September 5,</p> <p>13 2016, law enforcement sensitive. Do you see</p> <p>14 that?</p> <p>15 A. Yes.</p> <p>16 Q. Okay. And in the initial email, and I</p> <p>17 want to go -- it's a forward, but it says,</p> <p>18 see attached. Do you see that?</p> <p>19 A. Oh, yes, okay. Yeah, I do.</p> <p>20 Q. If we go to the bottom, which is the</p> <p>21 rest of the email that -- it has this</p> <p>22 September 5th email, and it says through</p> <p>23 Rosa, Chairman Archambault. Do you know who</p> <p>24 Chairman Archambault is?</p> <p>25 A. Yes, I do.</p>

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	Page 54	Page 56
54:4-56:1 401-402	<p>1 Q. Is he part of the Standing Rock Sioux 2 tribe at the time? 3 A. Yes. 4 Q. Their chairman. And it says, they 5 requested a meeting regarding the activities 6 over the past day or two. Do you recall 7 attending a meeting with the Standing Rock 8 Sioux tribe at the beginning? 9 A. I do, yes. 10 Q. Okay. 11 MR. KERLIN: Can we go to the 12 attachment, which is the next page. And, 13 again, for the record, this will be marked 14 Exhibit 312. If you go back one page. There 15 we go. 16 BY MR. KERLIN: 17 Q. It's got a number of attendees here. We 18 go down the list, you're on the list there, 19 US Marshal Paul Ward. Do you see that? 20 A. Yes. 21 Q. And then Jake O'Connell from the FBI. 22 Do you see his -- 23 MR. KERLIN: Oh, we need to go back 24 a page. Sorry. To the top, that is. 25</p>	<p>1 meeting. 2 Q. Your counsel's raised an issue. You 3 haven't had the opportunity to read the whole 4 document. Would you like to read the whole 5 document? Then I'll ask a question about it. 6 A. Okay. I haven't read it in its 7 entirety, but I perused it. I guess you can 8 ask your question. 9 Q. By this time period, September 5th, 10 2016, did you think that the protestors that 11 were active regarding the DAPL pipeline were 12 out of control? <span style="float: right;">56:9-20 602; 611 vague</span> 13 A. Yes. Seemed to be out of control in 14 that -- if being rebellious at the time 15 consisted of what you would term as out of 16 control, then yes, if that was the time 17 period where the roadblocks needed to be put 18 up and the barricades that they used, that 19 type of thing, if that's the same period, 20 yes. 21 Q. I'd like to -- did you at some point 22 find out that there was -- 23 MR. KERLIN: You can take this 24 exhibit down. Before we do -- 25</p>
	<p>1 BY MR. KERLIN: 2 Q. Do you recall Mr. O'Connell being with 3 the FBI? 4 A. Yes. 5 Q. Was he one of the FBI agents that you 6 mentioned earlier that might have attended 7 the command center from time to time? 8 A. He was the supervisor in the Bismarck 9 office. 10 Q. How would you characterize this meeting 11 with Standing Rock Sioux tribe 12 representatives? 13 MR. SCARPATO: Just stepped in here 14 for a moment and note for the record that 15 Mr. Ward has not had an opportunity to review 16 the document in full. 17 BY MR. KERLIN: 18 Q. Mr. Ward, would you like to -- 19 A. To be honest with you, I don't recall 20 the context of this whole meeting. 21 Q. Okay. 22 A. I recall meeting with David Archambault 23 one time alone. Well, not alone, but that 24 was here in the US Attorney's office. I 25 don't recall context of this particular</p>	<p>1 BY MR. KERLIN: 2 Q. Mr. Ward, with respect to this time 3 period, and I know there's a meeting with 4 Standing Rock Sioux tribe -- 5 MR. KERLIN: And you can stop 6 sharing the screen, Jose. 7 BY MR. KERLIN: 8 Q. We're talking about September 5th, 9 around that time period of 2016, and I showed 10 you the meeting that occurred with Standing 11 Rock Sioux tribe, and you've already been to 12 the command center. You've spoken at the 13 command center, I take it, by this time, with 14 Sheriff Laney as well as Sheriff Kirchmeier? 15 A. I believe so, yes. 16 Q. As a 40-year law enforcement 17 professional, at this point do you think that 18 there was anything that law enforcement from 19 North Dakota was doing that was causing 20 problems or escalating things? 21 MR. SCARPATO: Objection, vague, 22 lack of personal knowledge. 23 THE WITNESS: Absolutely not. They 24 didn't cause the problem, they reacted to it. 25</p> <span style="float: right;">57:16- 25 602; 611 vague 701/702 expert test.</span>

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<p>58:2-20 602; 611 vague and compound; 701/702 expert test.</p>	<p style="text-align: right;">Page 58</p> <p>1 BY MR. KERLIN: 2 Q. And as a 40-year law enforcement professional and at the time of these events that we're discussing, you were the US Marshal for North Dakota. Do you think that the law enforcement response by North Dakota was appropriate and measured?</p> <p>8 MR. SCARPATO: Objection, vague, compound.</p> <p>10 THE WITNESS: It was not only appropriate, it was professional and needed.</p> <p>12 BY MR. KERLIN:</p> <p>13 Q. Do you have any criticism with North Dakota's law enforcement response at any point during the protests when you were the US Marshal until your retirement?</p> <p>17 A. I have no criticism of the local law enforcement or the state law enforcement response; I have a criticism that's on the federal side.</p> <p>21 Q. If there's assertions in this lawsuit by the United States that law enforcement engaged in excessive force, do you agree with that?</p> <p>25 A. No, I don't. I didn't witness or hear</p>	
<p>58:21-59:1 602; 701/702 expert test.</p>	<p style="text-align: right;">Page 60</p> <p>1 BY MR. KERLIN: 2 Q. And that would have been -- would you agree with me that the opportunity to do so would have been early on in the protests?</p> <p>5 MR. SCARPATO: Objection, vague.</p> <p>6 THE WITNESS: I think that the opportunity they had would have and should have been to request assistance to remove a minimal amount of people at the early onset --</p> <p>11 BY MR. KERLIN:</p> <p>12 Q. When you say --</p> <p>13 A. -- opposed to waiting.</p> <p>14 Q. I'm sorry. I didn't mean to interrupt.</p> <p>15 A. As opposed to waiting till it got out of control.</p> <p>17 Q. And that request, would it be accurate to say that request would have been needed to have been made to North Dakota law enforcement to remove those individuals from the US Army Corps of Engineers land; correct?</p> <p>22 A. Yes. And without -- I have to -- before we answer your question, I'm not 100 percent sure that the request should have been only to local law enforcement in that, if they had</p>	
<p>59:10-61:12 602, 701/702 expert test.</p>	<p style="text-align: right;">Page 59</p> <p>1 about anything that was excessive on the response of law enforcement.</p> <p>3 Q. Do you agree with me that the law enforcement activities by the State of North Dakota, especially when it came to your interactions at the courthouse, were collaborative and sought to maintain law and order?</p> <p>9 A. Yes.</p> <p>10 Q. Do you agree, as the federal marshal for the District of North Dakota, that the US Army Corps of Engineers, by allowing protestors to camp on their lands, extended the protests and the resulting costs of it?</p> <p>15 MR. SCARPATO: Objection, vague, assumes facts not in evidence, mischaracterizes the testimony, foundation, lack of personal knowledge.</p> <p>19 You can answer the question.</p> <p>20 THE WITNESS: I do agree, yes. I think that some type of request for a response to take care of a minimal amount of people first protesting on the land would have been the appropriate action as opposed to waiting until it got out of control.</p>	<p style="text-align: right;">Page 61</p> <p>1 any rangers that could issue a summons, typically that summons and the response to that summons through the court system would come through the federal court system, and the marshal service would serve that order. If they had made the request. I'm not 100 percent, but if it would have come through, then we would have had to deal with it. But they didn't. Whether or not they did it with the local law enforcement or not, I don't believe they did, and that's the result of the numerous people showing up.</p> <p>13 Q. Had they made that request, US Army says, hey, you know, there's trespassers on our land, please come remove them, that would have cut down the protests; right?</p> <p>17 MR. SCARPATO: Objection, vague, assumes facts not in evidence, foundation.</p> <p>19 THE WITNESS: I don't know.</p> <p>20 BY MR. KERLIN:</p> <p>21 Q. Let me ask it a different way. By not doing so and then allowing them to stay through the spring of 2017, those actions did allow the protests to continue for many months afterwards; correct?</p>

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	Page 62		Page 64
1	MR. SCARPATO: Objection, vague,	1	was -- the corps was going to provide,
2	lack of personal knowledge, foundation,	2	potentially, a special use permit or allow
3	mischaracterizes the evidence, and assumes	3	the tribe to make an application for the
4	facts not in evidence.	4	special use permit to be on corps land?
5	THE WITNESS: I don't know that. I	5	A. Apparently. I don't know -- I recognize
6	don't know what could have put a stop to	6	the term, but I don't know -- I don't recall
7	this.	7	what, particularly, that's about.
8	BY MR. KERLIN:	8	Q. If you go down in the document -- I want
9	Q. Did you become aware at some point that	9	to go to the end of -- I guess it's page 34,
10	the US Army Corps of Engineers entertained	10	at the end of page 4, this exhibit. And,
11	the idea of allowing or issuing what's known	11	again, this is a forward of the thing. I'm
12	as a special use permit?	12	trying to go back through it so I can kind of
13	A. I've heard that term, but I'm not aware	13	take you through the time, take you through
14	of what the procedure was.	14	the entire document. It's just awkward to do
15	Q. Okay.	15	it remotely. So I apologize for that.
16	MR. KERLIN: Jose, would you bring	16	MR. KERLIN: Jose -- Mr. Diaz, if
17	up Exhibit 206, please.	17	you'll zoom out.
18	(Exhibit 206 referenced)	18	BY MR. KERLIN:
19	BY MR. KERLIN:	19	Q. I just kind of want to give you an
20	Q. This is a fairly lengthy exhibit, and so	20	overview of the document. This is the first
21	I want to show you the first page, and I want	21	in the string, I believe. And then it's from
22	to give you an opportunity to go through the	22	a -- it's from a James Startzell. Do you
23	whole thing. It will take a little while.	23	know Mr. Startzell?
24	There are portions that are redacted. That	24	A. No, I don't know him.
25	means that there's an assertion of	25	Q. It mentions that there's no significant
	Page 63		Page 65
1	attorney-client or work product or privileges	1	update on activities related to DAPL,
2	by the United States, so that information is	2	according to our contact with HQ, USACE, the
3	blocked out. To the extent you recall	3	notification for the easement permit has not
4	something that was in there, none of my	4	yet been sent to Congress.
5	questions are going to be asking about the	5	Do you know anything about that?
6	contents of what's been redacted. Okay?	6	A. I don't know. I don't recall this. I
7	A. Okay.	7	don't know.
8	Q. Here on the initial "to" line -- I'm	8	Q. Okay.
9	sorry, CC line. I spoke incorrect. It looks	9	MR. KERLIN: I want to go to the
10	like you're CCed on the email, and it's	10	next -- if we can go up one in the chain, so
11	September 7th of 2016. Do you see that?	11	now we're going to the next email here at the
12	A. Yes.	12	bottom.
13	Q. It's from James Thomas. We've talked	13	BY MR. KERLIN:
14	about him; correct?	14	Q. Do you know Keith Fink?
15	A. Yes.	15	A. No, I don't.
16	Q. The subject line in this email has FW,	16	Q. It says, Chairman -- I'm reading this
17	forward, special use permit request for	17	email, and, again, it's directed to James
18	additional information, draft, then it has	18	Startzell, Chairman Archambault contacted
19	unclassified, MSG, MSG, re DAPL, corps	19	Eric Stasch at Oahe Project providing a map
20	special use permanent and related authority.	20	for his special use permit request.
21	Do you see that?	21	Mr. Stasch replied to the chairman that
22	A. Yes.	22	permit decision has been pulled up to HQ.
23	Q. At some point did you become -- I guess	23	Again, you don't any knowledge with
24	this is dated September 7th. Would you agree	24	respect to whether there was any permit or
25	that, by then, you became aware that there	25	permit application; is that fair to say?

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1	A. Yes, that's fair to say. I have no knowledge.	1	one page for us here.
2		2	BY MR. KERLIN:
3	Q. Okay. The next line says, current	3	Q. Now we're at September 6th of 2016, and it mentions a draft of the response to the
4	estimates at the cannonball protest sites is	4	special -- Standing Rock -- SRST special use
5	still 300 to 500 people.	5	permit application.
6	To your knowledge, did the protest	6	And, again, I understand you don't
7	grow significantly from the 300 to 500 people	7	have a recollection of the specifics
8	range?	8	regarding the permit, but do you recall any
9	A. Yes.	9	discussion about any bond or liability
10	MR. SCARPATO: Objection, vague.	10	insurance requirements in any of the
11	BY MR. KERLIN:	11	discussions you had with anybody besides
12	Q. Would it be fair to say that it	12	anybody at the federal agencies?
13	increased by an order of magnitude to the	13	A. No.
14	3,000 or 5,000 people range or more?	14	Q. And I take it you don't know whether or
15	A. I would say potentially more.	15	not any of those requirements, to the extent
16	Q. And that's based upon your personal	16	there were any with respect to the
17	observations in the command center as well as	17	application, were ever satisfied; is that
18	being the US Marshal for the District of	18	correct?
19	North Dakota; correct?	19	A. I think you need to repeat that, please.
20	A. Yes.	20	Q. Sure. With respect to any conditions
21	MR. KERLIN: If we go up to the	21	that were required before the permit would be
22	next email -- actually, I'm sorry. Before we	22	issued, is it fair to say you don't have any
23	go there, let's take that down.	23	knowledge about those?
24	BY MR. KERLIN:	24	A. No.
25	Q. When we were talking earlier about being	25	
	Page 67		Page 69
1	able to potentially stop the protests before	1	Q. Okay.
2	they could get out of control, would that	2	MR. KERLIN: And then you can take
3	have been prior to August of 2016?	3	that down, Mr. Diaz. If we go -- again, we
4	MR. SCARPATO: Objection,	4	can just go back one page. There's forwards,
5	foundation.	5	and I believe everything else has been
6	BY MR. KERLIN:	6	redacted, but if we go back to the front
7	Q. I'm sorry. Prior to the date of this	7	page.
8	email, so August 21st, 2016?	8	BY MR. KERLIN:
9	MR. SCARPATO: Same objection.	9	Q. That's the email that you forwarded. So
10	THE WITNESS: I assume so. I don't	10	it had all of these, the different emails
11	know that.	11	below it that we've gone over, they
12	BY MR. KERLIN:	12	ultimately did get forwarded to you; right?
13	Q. Okay. And then this next email, it's a	13	A. Yes.
14	back and forth between Startzell and Fink	14	Q. Were you aware --
15	with a lot of people CCed on it. Again, it	15	MR. KERLIN: You can take that down
16	talks about the special use permit. I just	16	now.
17	wanted you to have the opportunity to read	17	BY MR. KERLIN:
18	that. I don't have a specific question about	18	Q. I just want to make sure, do you know
19	it because we've discussed your knowledge or	19	whether or not a permit was ever issued by
20	lack thereof about the special use permit	20	the corps?
21	process application.	21	A. I don't recall.
22	MR. KERLIN: If we go to the next	22	Q. Do you recall a press release that was
23	email, so, again, this is Wednesday. Yep.	23	issued by the US Army Corps of Engineers
24	If we go to the next -- yes. Starts at the	24	stating that a permit had been issued?
25	bottom. Now we're -- trying to get it all on	25	A. No, I don't recall that.

**ND OBJ:**  
Introduces new material

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<p style="text-align: right;">Page 70</p> <p>1 MR. KERLIN: Could you bring up 2 Exhibit 26, please. 3 (Exhibit 26 referenced) 4 BY MR. KERLIN: 5 Q. Showing you an exhibit which has been 6 marked as 26, which is an exchange between 7 John Henderson -- do you know who John 8 Henderson is? 9 A. I don't know him personally, but I know 10 his title. 11 Q. He was a commander of the US Army of 12 Corps of Engineers for the Omaha District. 13 Were you aware of that, that he was the 14 commander for that district? 15 A. Yes. 16 Q. Okay. 17 A. Yes, I was. 18 Q. And this is from him to 19 Mr. Archambault -- Chairman Archambault. 20 Were you aware of any of the particulars 21 about what the corps was proposing as far as 22 allowing access for protestors on corps land? 23 A. I believe so, yes. It's not a subject 24 that I'm particularly remembering well, to be 25 honest with you.</p>	<p style="text-align: right;">Page 72</p> <p>1 A. Any contact I had -- 2 MR. SCARPATO: Objection, facts not 3 in evidence. 4 THE WITNESS: Any contact that I 5 had in reference to a subject such as what 6 you just mentioned was early on when I was at 7 meetings at the command center, and someone 8 from the Corps of Engineers was on the other 9 end, or someone from the DAPL company was on 10 the other end, which was very minimal 11 because, shortly after that, when I made the 12 request for assistance, I was denied, and, 13 like I said before, was no point in attending 14 the meetings if I couldn't assist them. 15 BY MR. KERLIN: 16 Q. Someone who has been involved in law 17 enforcement, again, for four decades, do you 18 think it's a good idea not to keep, for 19 instance, the Corps of Engineers with federal 20 land they're permitting to be used or 21 potentially not to be used, not to 22 communicate with the US Marshal for that 23 state? 24 MR. SCARPATO: Objection, vague and 25 compound.</p>
<p style="text-align: right;">Page 71</p> <p>1 Q. Okay. Did the Corps of Engineers 2 contact you and let you know, as the US 3 Marshal, that, you know, this is what we are 4 going to do, or did they provide you 5 information, or do you recall anything like 6 that? 7 A. No, I don't. 8 Q. In other words, as the US Marshal for 9 the District of North Dakota, did the US Army 10 Corps of Engineers keep the marshal for that 11 jurisdiction in the loop for what they were 12 doing with federal lands? 13 A. No. I may have received, like you're 14 seeing, some of these exhibits, you know, a 15 CC copy of an email, but I don't recall ever 16 having been apprised by Colonel Henderson or 17 anyone else in regards to what was going on 18 on federal land. 19 Q. They didn't, you know, for instance, 20 pick up the phone and call you and say, we 21 just want to make sure you are aware that we 22 have this situation, and we decided to do 23 this, that, or the other thing about allowing 24 them to stay there, camp, or build structures 25 or roads or things like that?</p>	<p style="text-align: right;">Page 73</p> <p>1 THE WITNESS: I would think it 2 would be a good idea if he knew that 3 potentially I could help them. Eventually he 4 didn't -- he knew I couldn't help them, so 5 what's the point in telling me? 6 BY MR. KERLIN: 7 Q. And when you say couldn't help them, 8 that would be because your request for 9 additional federal resources and assets to 10 assist with the federal lawful response had 11 been denied repeatedly; is that correct? 12 A. Yes. It would make more sense that he 13 could contact local law enforcement. 14 Q. And by doing so, if he contacted local 15 law enforcement or state law enforcement, 16 that would then be the burden of the state 17 law enforcement to then pay for that 18 response, that law enforcement response, even 19 though the protestors were camping out on 20 corps land? 21 MR. SCARPATO: Objection, vague, 22 and assumes fact not in evidence. 23 THE WITNESS: I don't know an 24 answer to that. I don't know whose 25 responsibility it would be.</p>

71:1-18 611 vague

71:19-72:14 401-402;  
611

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1	MR. KERLIN: Okay. We're done with	1	A. Yes.
2	this exhibit now. Actually, I'm sorry. Is	2	Q. This was from James Startzell, it's to
3	there an attachment to this, I believe?	3	Keith Fink and then also John Henderson. We
4	BY MR. KERLIN:	4	talked about Mr. Henderson. Do you see that?
5	Q. This is the press release. Do you ever	5	A. Yes.
6	recall seeing this press release about the US	6	Q. Says, thanks, Keith. I'll include some
7	Army Corps of Engineers granting a special	7	of the highlights in the DAPL update on
8	use permit?	8	Monday. All this information basically
9	A. I don't recall seeing that, no.	9	confirms the commander's assessment that the
10	Q. Okay.	10	camps are growing out of SRST's control, and
11	MR. KERLIN: You can go ahead and	11	the chairman is probably going to try to use
12	take that down.	12	the SUP as a way to regain control of what he
13	BY MR. KERLIN:	13	sees as legitimate protestors.
14	Q. Do you recall receiving updates from Tom	14	Do you see that?
15	Doering and others regarding the protests?	15	A. Yes.
16	A. I'm sorry. I didn't hear what you said.	16	Q. Were you aware that there were
17	Receiving what?	17	protestors that were on corps land that were
18	Q. Receiving updates regarding the protests	18	not part of the Standing Rock Sioux tribe?
19	from Tom, I believe it's pronounced Doering?	19	A. That's what the intelligence received by
20	A. I don't recall if I did or not. I don't	20	the command center indicated, yes.
21	know.	21	Q. And by the end of September, do you
22	Q. Some of the dates we were looking at	22	agree with the commander's assessments that
23	earlier, so we were looking around the -- we	23	the camps are growing out of the Standing
24	looked at some documents that were around mid	24	Rock Sioux tribe's control?
25	to late August, and then September, some of	25	A. It seemed like by the end of September,
	Page 75		Page 77
1	the emails we were looking at an September	1	it was out of control for everyone.
2	7th. From that point on, did the protests	2	Q. Now, with respect to keeping control of
3	continue to grow in size and intensity?	3	the protests that were on -- camping on corps
4	A. I know it continued to grow, but I don't	4	land, do you understand that US -- strike all
5	know the onset date or the ending date when	5	that.
6	the growth came to its maximum. I'm not	6	Do you understand that the US Army
7	sure.	7	Corps of Engineers land is, I mean, that's
8	Q. Okay. Do you know if after the	8	federal land; right? That they're
9	protest -- if after the special use permit	9	responsible for.
10	press release that I showed you, after that	10	A. Yes.
11	came out, that the protest then grew	11	Q. Okay.
12	significantly and quickly?	12	A. Yeah.
13	MR. SCARPATO: Objection, vague.	13	Q. At this time period in September of
14	THE WITNESS: I don't know that. I	14	2016, to your knowledge, did the US Army
15	knew it grew, but I don't know when it	15	Corps of Engineers or any federal law
16	started, and I don't know what the cause of	16	enforcement take any responsibility for what
17	it was.	17	was happening on corps land?
18	MR. KERLIN: Bring up Exhibit 318,	18	MR. SCARPATO: Objection, vague.
19	please.	19	THE WITNESS: I don't -- no, I
20	(Exhibit 318 marked)	20	don't know if anyone did or not.
21	BY MR. KERLIN:	21	BY MR. KERLIN:
22	Q. Okay. And this is an email that you're	22	Q. Were there any, to your knowledge, any
23	not on, but I want to make that clear. The	23	federal law enforcement that went onto corps
24	date of this is September 25th of 2016. Do	24	land to try and maintain law and order, to
25	you see that?	25	try and get the protest back into control?

75:20-76:15  
103(d); 602; 611

77:22-  
78:12  
602

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<p>1 MR. SCARPATO: Objection, vague.</p> <p>2 THE WITNESS: I do know that the</p> <p>3 FBI had sent some agents into the protestors'</p> <p>4 site in an undercover capacity in an attempt</p> <p>5 to obtain intelligence.</p> <p>6 BY MR. KERLIN:</p> <p>7 Q. In that activity, was there any other</p> <p>8 type of federal law enforcement activity on</p> <p>9 corps land, that you're aware of?</p> <p>10 MR. SCARPATO: Objection, vague and</p> <p>11 foundation, lack of personal knowledge.</p> <p>12 THE WITNESS: No.</p> <p>13 BY MR. KERLIN:</p> <p>14 Q. Would you agree with me that in order to</p> <p>15 get control of the protests, that, since this</p> <p>16 was federal land, federal law enforcement</p> <p>17 should have taken some actions to try and</p> <p>18 control the protestors that had grown out of</p> <p>19 control?</p> <p>20 MR. SCARPATO: Objection, vague,</p> <p>21 and calls for a legal conclusion.</p> <p>22 THE WITNESS: Yes. From the very</p> <p>23 onset, when the Corps of Engineers took no</p> <p>24 action allowing them initially to camp on the</p> <p>25 land. And yes, in fact, there was no</p>	<p style="text-align: right;">Page 80</p> <p>1 MR. SCARPATO: Objection, calls for</p> <p>2 an incomplete hypothetical.</p> <p>3 THE WITNESS: Likely not, only due</p> <p>4 to a lack of personnel within the district.</p> <p>5 Like I mentioned before, during a protest</p> <p>6 outside the federal building, I had four or</p> <p>7 five deputies in the building. There's</p> <p>8 nothing four or five could do when you take</p> <p>9 the numbers that were needed for the court</p> <p>10 proceedings and prisoner transportation and</p> <p>11 operations of the district here in Bismarck.</p> <p>12 That would have left me with maybe one or two</p> <p>13 deputies to handle anything. There was</p> <p>14 nothing I could do with one or two deputies.</p> <p>15 I would have to go through the same</p> <p>16 requesting process, is what I'm getting at.</p> <p>17 BY MR. KERLIN:</p> <p>18 Q. If you were provided resources that you</p> <p>19 thought were sufficient, and you were asked</p> <p>20 by the Corps of Engineers to come onto their</p> <p>21 land to help address the protestors, is that</p> <p>22 something that you would done as a federal</p> <p>23 lawful enforcement officer for the District</p> <p>24 of North Dakota?</p> <p>25 MR. SCARPATO: Objection,</p>
<p>1 assistance provided to local law enforcement.</p> <p>2 BY MR. KERLIN:</p> <p>3 Q. Local law enforcement until they're</p> <p>4 invited onto federal land, they're not</p> <p>5 allowed to come onto the corps land to do</p> <p>6 anything with respect to the protestors;</p> <p>7 right?</p> <p>8 MR. SCARPATO: Objection, calls for</p> <p>9 a legal conclusion and lack of foundation and</p> <p>10 misstates the evidence and assumes facts not</p> <p>11 in evidence.</p> <p>12 THE WITNESS: I'm not sure what</p> <p>13 the -- I do know that at one point there was</p> <p>14 some type of checkerboard jurisdiction</p> <p>15 between the sheriff and Bureau of Indian</p> <p>16 Affairs on reservation land. And on federal</p> <p>17 land, I'm not exactly sure what the</p> <p>18 jurisdiction was for the local sheriff on</p> <p>19 federal land that's within his county.</p> <p>20 BY MR. KERLIN:</p> <p>21 Q. Fair enough. If the US Army Corps of</p> <p>22 Engineers had asked you as the US Marshal to</p> <p>23 provide a law enforcement response on US</p> <p>24 Corps of Engineers land, is that something</p> <p>25 that you would have done?</p>	<p style="text-align: right;">Page 79</p> <p>1 incomplete hypothetical.</p> <p>2 THE WITNESS: With the approval of</p> <p>3 the marshal service headquarters and the</p> <p>4 director of the marshal service. He would</p> <p>5 have provided ample deputies and gave the</p> <p>6 approval to it, I certainly would have.</p> <p>7 BY MR. KERLIN:</p> <p>8 Q. Okay. And if it was early on, like when</p> <p>9 we were talking earlier, at the onset of</p> <p>10 these protests, do you think that's something</p> <p>11 that could have been done safely if you were</p> <p>12 provided the resources and made that request?</p> <p>13 MR. SCARPATO: Objection, vague,</p> <p>14 lack of personal knowledge, and calls for a</p> <p>15 legal conclusion, incomplete hypothetical.</p> <p>16 THE WITNESS: Certainly would have</p> <p>17 been a much easier operation, that's for</p> <p>18 sure.</p> <p>19 MR. KERLIN: Okay. Let's -- we've</p> <p>20 been going about another hour. I know</p> <p>21 you're -- can we go off the record for a</p> <p>22 second.</p> <p>23 THE VIDEOGRAPHER: Going off the</p> <p>24 record. The universal coordinated time is</p> <p>25 1629. We are off record.</p>
<p>79:21-81:18</p> <p>602; 611 incomplete hypothetical</p>	<p style="text-align: right;">Page 81</p> <p>81:8-18</p> <p>602;</p> <p>611</p> <p>incompl</p> <p>ete</p> <p>hypoth</p> <p>etical;</p> <p>701/70</p> <p>2</p> <p>expert</p> <p>test.</p> <p>and</p> <p>legal</p> <p>concl.</p>

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	Page 82		Page 84
1	(Discussion held off record)	1	legs, the discharged projectile went been the
2	(Lunch recess taken at 10:30 a.m.	2	legs of two different highway patrolmen, if I
3	MDT)	3	remember right.
4	-00-	4	Q. Yeah.
5		5	MR. KERLIN: Could we bring up
6		6	Exhibit 319.
7		7	(Exhibit 319 marked)
8		8	BY MR. KERLIN:
9		9	Q. Do you see that on your screen?
10		10	A. Yes.
11		11	Q. Okay. So the date of this email, so
12		12	it's October 27, 2016, so it's, well, about
13		13	six, seven weeks after some of the emails
14		14	that we were looking at earlier that was
15		15	around September, start of September. Okay?
16		16	Just to put it into context.
17		17	It's a string of emails, and we
18		18	can -- you respond to a part, but I think if
19		19	maybe we go to the end and work our way up,
20		20	we can make sure we have an opportunity for
21		21	you to see the whole thing.
22		22	The bottom email is an email from
23		23	Chris Myers, October 27th. I don't believe
24		24	you're on that one. I will ask you if are
25		25	familiar with the fact that it mentions LE
	Page 83		Page 85
1	A F T E R N O O N S E S S I O N	1	has made arrests. No accurate numbers
2	(Proceedings resumed at 11:32 a.m.	2	available yet. Is that familiar with your
3	MDT)	3	recollection or consistent with your
4	THE VIDEOGRAPHER: We are now back	4	recollection that there was a number of
5	on the record. Universal coordinated time is	5	arrests that were made of protestors?
6	1732.	6	A. Yes.
7	EXAMINATION (continued)	7	Q. Okay. Then the email above it is the
8	BY MR. KERLIN:	8	thank you from a Rita Aguilar. I don't think
9	Q. Good afternoon, Mr. Ward. We're back	9	you're on that one either. Then the email
10	after a break. Are you able to continue?	10	above it is from Clare Hochhalter. Do you
11	A. Yes. Should we put the screen back the	11	know who she is?
12	way it was? There you go.	12	A. That's a he. He's a federal magistrate
13	Q. Okay. I want to talk to you a little	13	judge in Bismarck.
14	bit about the DAPL protest, continuing our	14	Q. Thank you for that correction.
15	discussion from earlier today. At some point	15	It says, the attached map shows the
16	did you become aware of violence with the	16	intersection of County 134 and ND 1806, an
17	protestors?	17	area just north of the Cannonball River,
18	A. Yes.	18	which river is the northern boundary of the
19	Q. One instance did you learn that there	19	Standing Rock Indian reservation. This is
20	was a gunshot or that there was a law	20	generally the area where there is now a
21	enforcement officer that was injured in a	21	standoff where shots have been fired.
22	shooting?	22	Do you see that?
23	A. I heard that there was a gunshot, but I	23	A. Yes.
24	don't recall that I heard that there was a	24	Q. Okay. Then if we go to the email above
25	shooting. I thought it went between the	25	it, there's a question that's asked. Again,

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<p style="text-align: right;">Page 86</p> <p>1 I don't believe you're on either one of 2 these, but it says, thanks, Clare. Do you 3 know if these shots were fired by protestors 4 or LE?</p> <p>5 And then, the one above it, again 6 from Mr. -- Magistrate Judge Hochhalter, it 7 says, report is that LE did not fire shots. 8 Do you see that?</p> <p>9 MR. KERLIN: Below -- I think it's 10 the one below that. Next one. Yeah.</p> <p>11 BY MR. KERLIN:</p> <p>12 Q. Then, if we -- the next one says, thank 13 you. Please keep us posted. We really 14 appreciate it, and everyone, please stay 15 safe.</p> <p>16 A. Okay.</p> <p>17 Q. And then above that is your email, which 18 you send to Ronald Davis. You said, I need 19 to correct this past email. The gunshot 20 victim is not deceased but wounded. The 21 police officer who initially was thought to 22 be grazed in the leg by a gunshot was only 23 hit with, apparently, a piece of road 24 material after the road was hit with a 25 gunshot. Officer has not been shot.</p>	<p style="text-align: right;">Page 88</p> <p>1 MR. SCARPATO: Objection, 2 foundation, lack of personal knowledge.</p> <p>3 THE WITNESS: I don't know -- I 4 don't know what the initial thought process 5 entailed. I just know that I didn't agree 6 with it.</p> <p>7 BY MR. KERLIN:</p> <p>8 Q. Didn't agree with sending in the 9 undercover officers?</p> <p>10 A. Right. I didn't agree with that.</p> <p>11 Q. And why didn't you agree with that?</p> <p>12 Like, what was your reasoning behind that?</p> <p>13 A. The FBI agents that were sent undercover 14 had since returned to Bismarck to man it and 15 had approached me in seeking some assistance 16 because they didn't feel that them being sent 17 down amongst the protestors was the proper 18 thing to do without notification to the 19 command center and the local leadership, 20 consisting of the sheriffs.</p> <p>21 They knew that -- they knew that 22 the sheriffs didn't know that they were 23 there, which is a bad law enforcement tactic, 24 mainly because of the safety of the 25 undercover officers. If there has been some</p>
<p style="text-align: right;">Page 87</p> <p>1 Do you see that?</p> <p>2 A. Yes.</p> <p>3 Q. Okay. And that's -- is that consistent 4 with what you were testifying, consistent 5 with your recollection with what you said 6 earlier that there was a gunshot, but it 7 wasn't anyone that got shot?</p> <p>8 A. Yes.</p> <p>9 Q. Okay. Is this indicative of some of the 10 violence that was being carried on by the 11 protestors that were protesting the DAPL 12 pipeline?</p> <p>13 MR. SCARPATO: Objection, assumes 14 facts not in evidence and vague.</p> <p>15 THE WITNESS: Yes. That was one 16 instance.</p> <p>17 BY MR. KERLIN:</p> <p>18 Q. You mentioned earlier that there was an 19 FBI -- I'm going to call it an undertaking or 20 an effort to send in a couple of agents that 21 were undercover to the protest camps on corps 22 land. Do you recall that?</p> <p>23 A. Yes.</p> <p>24 Q. What was the law enforcement reason -- 25 or what was the reason behind doing that?</p>	<p style="text-align: right;">Page 89</p> <p>1 type of emergency response and a raid 2 required into the protestors, we being, law 3 enforcement on the opposite side, wouldn't 4 know that the undercover officers were within 5 the protestors, and one of us could have 6 gotten hurt.</p> <p>7 Q. Was it accurate that not all of the 8 protestors were peaceful that had been 9 camping out on corps land?</p> <p>10 A. Yes, that's accurate.</p> <p>11 Q. Do you know who made the decision to 12 send the FBI agents undercover?</p> <p>13 A. I was told by those agents who made that 14 decision. I don't know that that's factual 15 or not, but I'm assuming it is.</p> <p>16 Q. Who did they tell you?</p> <p>17 A. Their supervisor, Jake O'Connell.</p> <p>18 Q. Was there concern that the protestors -- 19 well, were you aware that the protestors that 20 were camping on corps land, in part, were 21 from out of state?</p> <p>22 A. Yes, I was aware of that.</p> <p>23 Q. And what --</p> <p>24 A. I understood that they --</p> <p>25 Q. Sorry.</p>

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90:1-16  
401-402; 602; 802

for completeness  
under 106 if objections  
above overruled

<p style="text-align: right;">Page 90</p> <p>1 A. I understood that they were from various 2 parts of the country, if not out of the 3 country, but I don't know how much of that 4 was factual, but I heard that.</p> <p>5 Q. Was there any concern amongst the law 6 enforcement that you were a part of regarding 7 the protest that the law enforcement efforts, 8 that there were some of these protestors that 9 were coming in from out of state had a 10 history of violence or anarchy?</p> <p>11 MR. SCARPATO: Objection to form 12 and foundation.</p> <p>13 THE WITNESS: There's always that 14 concern that anyone may have the potential 15 for violence. You always have to be 16 concerned about that.</p> <p>17 BY MR. KERLIN:</p> <p>18 Q. Do you know if one of the reasons why 19 the FBI agents were sent undercover was 20 because of some of the concern of the 21 protestors being violent, their propensity 22 for violence?</p> <p>23 MR. SCARPATO: Objection, calls for 24 speculation.</p> <p>25 THE WITNESS: I have no idea what</p>	<p style="text-align: right;">Page 92</p> <p>1 BY MR. KERLIN: 2 Q. The date of this email is November 1st, 3 so it's a few weeks, a few days after the 4 last email, I guess four, five. It's from 5 Terry Van Horn. Are you familiar with Terry? 6 A. Yes. 7 Q. It says, at least on the signature block 8 here, he's the National Security Intelligence 9 Specialist, Law Enforcement Coordinator, 10 District Security Manager, Public Information 11 Officer at the United States Attorney's 12 Office. Is that consistent with your 13 recollection? 14 A. Yes. 15 Q. And his email just said, FYI, and it's 16 forwarded to Chris Myers, Gary DeLorme, James 17 Thomas, and Clare Hochhalter. 18 Okay. If we scroll to the message 19 that was forwarded, it's dated November 1st, 20 and it's from Lynn Woodall from Morton County. Do you see that? 21 A. Yes. 22 Q. It's sent to Terry Van Horn, a number of 23 individuals, Sheriff Laney, Sheriff 24 Kirchmeier, and then you are CCed on down the</p>
<p style="text-align: right;">Page 91</p> <p>1 the basis for Jake's decision was. I have no 2 idea why he did it.</p> <p>3 BY MR. KERLIN:</p> <p>4 Q. Okay.</p> <p>5 A. I have to assume that Jake's assumption 6 was for the betterment of the investigation, 7 that he was trying to gather intelligence. I 8 don't disagree with that decision. I 9 disagree with the fact that the local law 10 enforcement wasn't notified that he was going 11 to undertake that endeavor.</p> <p>12 Q. No whatever intelligence they gathered 13 was ever shared with state law enforcement?</p> <p>14 A. I don't know. I would hope it was, but 15 I don't know.</p> <p>16 Q. Were you aware of protestors that killed 17 livestock and wildlife?</p> <p>18 MR. SCARPATO: Objection, 19 foundation, lack of personal knowledge.</p> <p>20 THE WITNESS: I don't recall that, 21 no.</p> <p>22 MR. KERLIN: Could you bring up 23 Exhibit 330, please. 320. I'm sorry. 320. 24 (Exhibit 320 marked)</p>	<p style="text-align: right;">Page 93</p> <p>1 page as well. Do you see that? 2 A. Yes. 3 Q. This email says, there are two more 4 missing buffalo. It says, Ernie and Bev 5 Fisher called the TOC at 1820 and stated they 6 were missing two more buffalo, that the state 7 brand inspector found video. They stated 8 that "Josue Rivas Photographer" posted a video 9 on Facebook of two buffalo being butchered. 10 I found the video. It clearly shows two 11 animals being skinned. If everything goes as 12 planned, officials are going to round up the 13 herd on the east side of 1806 and transfer 14 them to the Solen area. They'll let me know. 15 Does this refresh your recollection 16 at all about buffalo being killed? 17 A. I'm sorry. What's your question again? 18 Q. I'm just asking if seeing this email 19 that you were CCed on, does it refresh your 20 recollection that wildlife or animals were 21 being killed by protestors? 22 A. Yes. Apparently -- apparently, I was 23 aware at the time. You gotta remember, I get 24 a lot of emails as the marshal, and I review 25 a lot of them and some of them pertain to me,</p>

93:18-94:  
2  
401-402

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Page 94	Page 96
1 some don't. I'm sure I read this, but I just 2 didn't recall. 3 Q. Okay. 4 MR. KERLIN: You can take that 5 down, Mr. Diaz. 6 BY MR. KERLIN: 7 Q. So in addition to the gunshot incident 8 that we were talking about, there's been 9 animals that had been butchered by the 10 protestors. Do you recall any other 11 incidents that would be examples of the type 12 of violence that specifically come to mind to 13 you? 14 A. I do recall one incident where the 15 protestors were on horseback and charging the 16 front line of some troopers who were standing 17 still and being charged by protestors on 18 horseback. 19 I do recall one on incident where 20 there was, it appeared, but I don't think -- 21 it didn't happen, but it appeared that a 22 gunshot was, somebody -- they were in, like, 23 a water section, a slough of some sort, and I 24 don't recall who shot a weapon, but they did 25 shoot, and it looked like the other person	1 regarding temporary flight restrictions over 2 the DAPL protest sites. 3 A. Okay. 4 Q. There's your response that's above it. 5 That's what I want to focus on next. The 6 date of this email is November 4th, and it 7 was sent from you to Mr. Brian Throop of the 8 FAA, and its subject line is North Dakota TFR 9 request. 10 Hello, Brian. The justification 11 for my support is simply due to officer 12 safety. In the recent past, protestors have 13 used drones to attempt to crash helicopters 14 who were conducting law enforcement missions 15 You know better than I what type of damage to 16 helicopters and human life would occur if a 17 drone hit an occupied helicopter while in 18 flight. I do know the pilot and sheriff who 19 occupied the helicopter feared for their 20 lives when the drone came within 21 approximately 50 feet of the helicopter. On 22 other occasions the drones have been flown 23 within just a few feet of officers' heads and 24 within a few feet of vehicles occupied by law 25 enforcement. Continuous law enforcement air
94:19-95:7 602	96:4- 97:17 602; 802
95:9-96:3 401-402	Page 95
1 dropped, like it shot them and killed them 2 dead, but, as it turned out, it wasn't as it 3 appeared. Apparently the guy fell over or 4 dropped to avoid being shot, and the bullet 5 missed him. So I do recall seeing that, but 6 I don't recall who it was that did the 7 shooting. 8 MR. KERLIN: Would you bring up 9 Exhibit 321. 10 (Exhibit 321 marked)	1 surveillance needs to be conducted to ensure 2 officer and public safety, including the 3 safety of protestors. With that in mind, I 4 request you approve the flight restrictions 5 to ensure safety for all involved. 6 Do you see that? 7 A. Yes. 8 Q. Okay. Do you -- do you recall having 9 sent this email? 10 A. Not specifically sending it, but I do 11 recall the topic. 12 Q. Okay. And it mentions -- you mention in 13 the email that there were these attempts by 14 protestors, so they were trying to take 15 drones and fly them into law enforcement 16 vehicles and aircraft? 17 A. Yes. 18 Q. But, I mean, was law enforcement doing 19 anything to prevent that response? 20 A. I think what they did, the best they 21 could, was try to avoid them. 22 Q. And then you mentioned, you said, I do 23 know the pilot and sheriff. Do you know 24 which sheriff that is? 25 A. It was probably the sheriff of Morton

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<p>98:2-7 602</p> <p>1       County. Or Sheriff Laney from Cass County. 2       Q. Okay. Then, in addition to flying them 3       into vehicles, that they've flown within a 4       few feet of the officers' heads, I guess 5       while the officers are trying to do law 6       enforcement activities?  7       A. Yes.  8       Q. Then if we go to the response you 9       received from the FAA, Mr. Throop sends you a 10      response and says -- I'll wait till it's 11      brought up. Thank you, sir. I appreciate 12      your candor and insight. I do have one quick 13      follow-on question. Not to split hairs, but 14      in your professional judgment, is there an 15      ongoing threat that individuals will continue 16      to use unmanned aircraft in a manner that 17      threatens law enforcement personnel and 18      aircraft?  19      Do you see that?  20     A. Yes.  21     Q. Your response --  22        MR. KERLIN: Go on up next.  23        BY MR. KERLIN:  24     Q. It says, yes, and this is November 4th, 25     2016, still the same day, yes, without a</p>	<p>Page 98</p> <p>1       Q. And the next one says, gathered 2       intelligence indicates more protestors and 3       more violent acts are to come. Do you recall 4       that?  5       A. Yes.  6       Q. The last sentence you state, we as law 7       enforcement do not see an end to the violent 8       acts in the near future.  9       Is that consistent with your 10      recollection in November of 2016 that that 11      was what you and law enforcement thought?  12        MR. SCARPATO: Objection, vague.  13        THE WITNESS: That's what we 14      thought at the time.  15       BY MR. KERLIN:  16       Q. Okay. And, actually, the protest didn't 17      end for significantly longer and even after 18      your retirement; correct?  19       A. Yes.  20       Q. And then you shared the email chain, you 21      go to the top message, email from you to 22      Sheriff Kirchmeier. You state, this is the 23      chain of messages I sent to FAA regarding 24      flight restrictions. I had a long 25      conversation as well prior to the emails.</p>
<p>99:2-25 602</p> <p>1       doubt, this is ongoing. 2       Is that your recollection is that 3       at that time, on November 4th, there was an 4       ongoing threat to law enforcement personnel 5       and aircraft, that unmanned aircraft would 6       continue to be used in that manner?  7       A. Yes.  8       Q. In your next sentence it says, it has 9       gotten progressively worse for about three 10      months.  11       November 4th, so if we're looking 12      back three months, we're talking about the 13      start of August; right? August, September.  14       Okay?  15       A. Yes.  16       Q. You said protestors have gotten more and 17      more desperate and more violent. Do you see 18      that?  19       A. Yes.  20       Q. Is that consistent with your 21      recollection that the protestors had gotten 22      more desperate and more violent as time went 23      on?  24       A. Yes, that's what would have been relayed 25      to me by the command center.</p>	<p>Page 99</p> <p>1       Do you see that? 2       A. Yes. 3       Q. Okay. So in addition to the emails you 4       sent, do you recall having a conversation 5       with FAA about flight restrictions? 6       A. I don't recall the conversation or 7       having it, but apparently I did. 8       Q. And why did you share the information 9       with Sheriff Kirchmeier? 10       A. It likely, like I said before, was as a 11      result of having a discussion with the 12      sheriff either Kyle or Paul Laney. 13       Apparently it was Kyle. And sharing, as a 14      result of a conversation, sharing the 15      information I learned through an email chain. 16       MR. KERLIN: Go to the next one, 17      please. It's 322. 18       (Exhibit 322 marked) 19       BY MR. KERLIN: 20       Q. This email is, begins, email chain 21      consists of two emails, two messages. 22       Initial email is from Mr. Throop about 23      reissuing the TFR, which I understand to be 24      temporary flight restriction. Do you see 25      that?</p>

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	Page 102	Page 104
1	A. Yes.	
2	Q. Okay. And then they limited the -- it	as an olive branch for legitimate protestors
3	says, it is basically the same size and scope	who want to document their own activities.
4	as before, so they're limiting what the	Do you see that?
5	flight restrictions are and that they're	
6	going to be in effect until the 15th.	A. Yes.
7	Do you see that?	Q. Were you involved with any of the
8	A. Can you point that out again.	discussions that might have occurred at the
9	Q. Sure. It's in the bottom email.	command center with the Department of
10	A. Okay. Okay. Yes.	Homeland Security for North Dakota about
11	Q. You responded to him, first of all,	extending an olive branch to the legitimate
12	thank you so much for considering our needs	protestors in this regard?
13	and safety of law enforcement. It means so	A. Not that I recall.
14	much to us. Can you inform why there is a	Q. Okay. Would you agree with me that it's
15	deadline, and what are the conditions you	an effort to de-escalate things?
16	referenced.	A. Seemed to be, yes.
17	Do you see that?	Q. And then at the top of this email, this,
18	A. Yes.	again, is something that you forwarded to
19	Q. Okay. And then you forwarded that,	Sheriff Kirchmeier.
20	again, to Sheriff Kirchmeier?	A. Yes.
21	A. Yes.	Q. And is this indicative, you know, we've
22	MR. KERLIN: Go to the next	seen a couple of emails here, the last couple
23	exhibit, and it's 323, for the record.	of exhibits where you forwarded information
24	(Exhibit 323 marked)	to Sheriff Kirchmeier. Is that indicative of
25		the type of relationship that you all had
		with respect to sharing this information
		during this protest time period?
	Page 103	Page 105
1	BY MR. KERLIN:	
2	Q. This is picking up where the last email	A. I think, because of the relationship we
3	left off. If we look at the bottom email on	had in sharing information, not just during
4	this page, the one where you had said, first	the protest time period, but any time.
5	of all, thank you for considering the safety	MR. KERLIN: Let's go the next
6	and needs -- needs and safety -- and the	exhibit. All right. This should be Exhibit
7	safety of law enforcement.	324. We'll mark it your next exhibit.
8	Do you see that?	Sorry.
9	A. Yes.	(Exhibit 324 marked)
10	Q. Okay. I want to go to the response from	BY MR. KERLIN:
11	FAA.	Q. So we're just a couple days past the
12	This is a response from FAA	last email, so this is November 7th of 2016.
13	November 4th. It says, no problem at all.	There's an email from Chris Myers, and it
14	And he explains that this particular type of	goes out to a long list of individuals, some
15	TFR does require a published begin/end date,	of which are with the state, some of which
16	and explains the T is for temporary, or	are with the federal government. And he
17	that's what he's been informed.	says, with the recent developments in
18	If we go the last paragraph, it	escalating violent criminal activity, I
19	says, the protestors will also be allowed to	propose an investigation/prosecution
20	fly drones in the air directly over their	coordination meeting to increase efficiency
21	camp.	and effectiveness of our investigators and
22	Do you see that?	subsequent prosecution.
23	A. Yes.	Do you recall attending a meeting
24	Q. And it says, the North Dakota Department	regarding investigation and prosecution
25	of Homeland Security actually asked for that	coordination because of the recent

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	Page 106	Page 108
1	activity of the protestors?	1 situation and long-term response needs.
2	A. I don't recall if I did or not.	2 Thank you for helping to set this up.
3	Q. And then Mr. Myers forwarded that to you	3 Call-in information, and provides the call-in
4	and mentioned that he forgot to copy you on	4 information.
5	it, feel free to attend or send someone else.	5 Mr. Ward, do you recall attending
6	You don't recall whether you attended that?	6 kind of all-hands-on-deck call like this that
7	A. No, I don't.	7 occurred?
8	MR. KERLIN: If you go to Exhibit	8 A. I don't, no.
9	325.	9 Q. Okay. Did you have an understanding,
10	(Exhibit 325 marked)	10 especially by November of 2016, that North
11	BY MR. KERLIN:	11 Dakota state law enforcement was trying to
12	Q. This is a document, it's dated November	12 mobilize law enforcement across the entire
13	10th, 2016. Looks like it might be some type	13 state to help with the necessary law
14	of a calendar invite or an invite for a	14 enforcement response to the DAPL protestors?
15	conference call, and if we go to the required	15 A. Yes. And I -- my recollection, I
16	attendees on the first line, it has you there	16 thought it was long before November.
17	at the end of the first line, Paul Ward.	17 Q. Oh, absolutely, early on it required an
18	MR. KERLIN: All right. Let me go	18 almost an all-state, you know, send every
19	to the next page so we can get the whole	19 available person that you can spare to help
20	context of it. Before we do, I was just	20 type of ask that went out for the state and
21	going to let him read that page and then go	21 then for neighboring states as well, they
22	to the next page.	22 have offered.
23	THE WITNESS: Can't read that very	23 A. Yes.
24	good.	24 Q. National guard.
25	MR. KERLIN: Yeah. Let's make that	25 MR. SCARPATO: Misstates the
106:12-108:8 602; 611		
108:9-23 602		
Page 107		
1	a little larger. There we go.	1 evidence, not in evidence.
2	BY MR. KERLIN:	2 BY MR. KERLIN:
3	Q. Hello, all. Sheriff Kirchmeier and DES	3 Q. Were you aware that the national guard
4	would like to hold a conference call for all	4 was mobilized for North Dakota to try and
5	the sheriffs and chiefs in North Dakota to	5 assist with the law enforcement response?
6	update us all on the protests and discuss the	6 A. Yes.
7	needs and plans for the next phase. If at	7 Q. Throughout the time period where North
8	all possible, please call in for this update.	8 Dakota is reaching out to all available law
9	Conference call and information is listed	9 enforcement that are available in the state,
10	below in the email from Sean Johnson. I have	10 asking other states to send assistance and
11	included US Attorney Chris Myers, US Marshal	11 law enforcement, mobilizing the national
12	Ward, and BCI Director Carlson on the call as	12 guard for the state was during this time
13	they have stood by us through this long	13 period when you were asking for federal law
14	incident. Mike, could you please forward	14 enforcement support?
15	this to the chiefs.	15 A. I was asking for federal law enforcement
16	MR. KERLIN: You can take that	16 assistance throughout this whole process. It
17	down. We'll go to the next page.	17 never -- right up until I retired.
18	BY MR. KERLIN:	18 Q. And during this whole time, the entire
19	Q. This is what was forwarded, and it's	19 State of North Dakota is trying to mobilize
20	Sean Johnson, Sheriff Laney, below is call-in	20 everything they can to deal with this
21	information for the sheriffs and police	21 situation that was created on corps land and
22	chiefs all call being hosted by Sheriff	22 that has now grown and grown and become more
23	Kirchmeier, Director Wilz. We are hoping as	23 violent. And on the federal side you're
24	many sheriffs and chiefs can join us as	24 asking; correct? You're trying to get
25	possible to discuss the current DAPL protest	25 assistance, and you're not provided any;
109:7-17 401-402		
109:18- 111:10 602; 611 vague, compoun d, assumes facts not in evidence		

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<p>109:18-111:10 401-402; 602; 611 vague, compound, assumes facts not in evidence</p> <p>111:16-113:6 401-402; 602; 611</p>	<p>Page 110</p> <p>1 correct? 2 MR. SCARPATO: Objection, vague, 3 compound, assumes facts not in evidence, and 4 mischaracterizes the evidence, foundation. 5 You can answer. 6 THE WITNESS: Yes, that's correct. 7 I didn't -- 8 BY MR. KERLIN: 9 Q. And so on one side we have an entire 10 state trying to do everything they can to 11 help deal with this protest that's being 12 encamped on federal land, and the federal 13 response, even when made by -- request made 14 by US Marshal for the District of North 15 Dakota, is they're nonexistent; is that 16 right? 17 MR. SCARPATO: Objection, vague, 18 compound, foundation, misstates the fact, 19 assumes facts not in evidence. 20 THE WITNESS: The response was 21 nonexistent. 22 BY MR. KERLIN: 23 Q. And so -- 24 A. I got -- 25 Q. -- North Dakota bore that entire</p> <p>Page 111</p> <p>1 responsibility by themselves without federal 2 assistance and without federal enforcement 3 support to deal with what was created and had 4 grown on federal land that was controlled by 5 the US Army Corps of Engineers; is that 6 correct? 7 MR. SCARPATO: Objection, vague, 8 compound, foundation, mischaracterizes the 9 evidence, assumes facts not in evidence. 10 THE WITNESS: Yes, that's true. 11 MR. KERLIN: All right. I'd like 12 to turn to the next exhibit we have, which is 13 326. 14 (Exhibit 326 marked) 15 BY MR. KERLIN: 16 Q. At some point, Mr. Ward, did you become 17 aware of a request for there to be some type 18 of prayer meeting or prayer vigil that was 19 gonna take place? 20 A. I don't know. I don't recall that. 21 Could have been, but I don't know. 22 Q. If we go down, this is another email 23 that you're on first page, you're CCed on 24 this email. You see at the top it's dated 25 November 14th of 2016. Sent by James Thomas,</p>	<p>Page 112</p> <p>1 and he forwarded that email. And then if we 2 go down to what he forwarded, there's an 3 email from Terry Van Horn that says, this is 4 what COE was talking about this morning at 5 the SEOC briefing. 6 MR. KERLIN: I want to turn to the 7 next page. 8 BY MR. KERLIN: 9 Q. There's two emails here. We start at 10 the bottom, dated Monday, November 14th, and 11 it says, COE granted permission for the 12 Standing Rock to pray. During the morning 13 briefing at the SEOC, COE announced that the 14 COE granted permission for Standing Rock to 15 pray just east of the DAPL drill pad on COE 16 land tomorrow. COE advised that COE would 17 have to coordinate with the TOC and law 18 enforcement for an escort through the TCP at 19 the FOB to be escorted to the prayer site. 20 Sheriff K spontaneously responded, no, not 21 going to happen. COE then immediately sat 22 down. 23 Do you know what COE stands for? 24 A. There's a lot of acronyms in that email 25 that I don't have a clue what they stand for.</p> <p>Page 113</p> <p>1 But, no, I don't know. 2 Q. Okay. Fair enough. 3 MR. KERLIN: Let me go the next 4 exhibit, 327, and I think you'll have a 5 little bit more explanation if I put some of 6 this in context. 7 (Exhibit 327 marked) 8 BY MR. KERLIN: 9 Q. This email is dated November 14th, 2016 10 It's from Mr. Thomas, and it has you CCed on 11 it as well. It says, the Morton County's 12 Sheriff's Department/Unified Command has 13 communicated to the United States Marshal 14 Service and asked us to communicate to you 15 that Morton County Sheriff's 16 Department/Unified Command does not have the 17 resources to maintain the safety of 18 participants or law enforcement in the 19 proposed day of action event on corps land 20 east of the Dakota Access drill pad. Morton 21 County Sheriff's Department/Unified Command 22 will not support such an event and will not 23 provide an escort for protestors' ingress or 24 egress for the corps land in question. 25 Also, Dakota Access has</p>
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1	communicated with Morton County Sheriff's	1	just drawn a blank on this issue.
2	Department/Unified Command which relayed	2	Q. Okay. All right.
3	that -- which relayed that United States	3	MR. KERLIN: Let's go to Exhibit
4	Marshal's Service, that Dakota Access did not	4	331.
5	agree to allow protestors access across its	5	(Exhibit 331 marked)
6	Cannonball Ranch property to reach corps	6	BY MR. KERLIN:
7	land, and no approval of access is	7	Q. This is an email that you sent
8	forthcoming for this event. Please	8	responding to Mr. Voeller.
9	communicate this to the necessary personnel.	9	MR. KERLIN: Let's go to the bo
10	I would be happy to put you in touch with	10	so we can see the rest of the email chain.
11	leadership at Morton County Sheriff's	11	I'm sorry. So he'll know what it's in
12	Office -- Sheriff's Department/Unified	12	response to.
13	Command. If you would like additional	13	BY MR. KERLIN:
14	information, I do not know the sheriff -- I	14	Q. So the one that we just discussed is
15	do not know the sheriff -- I do know the	15	this one above it, sir, the corp is going to
16	sheriff is currently engaged in multiple	16	allow a prayer ceremony to take place. That
17	protest events occurring in various	17	was what we just discussed. That was the
18	locations. I can get you contact information	18	prior email.
19	for Dakota Access if needed.	19	A. Okay.
20	Do you see that?	20	Q. All right. Then you respond, dated
21	A. Yes.	21	Monday, November 14th, from you to
22	Q. Okay. And do you recall if there was	22	Mr. Voeller at the US Army Corps -- or,
23	any request to try and egress through other	23	excuse me -- yeah, US Army Corps, you said,
24	means to reach the corps land for a type of	24	with all due respect, this is disappointing,
25	prayer ceremony?	25	to say the least. You have just allowed
Page 115		Page 117	
1	A. Apparently there was, according to that,	1	protestors behind all law enforcement
2	but I don't -- I don't recall it.	2	defenses. I disagree wholeheartedly, and I
3	MR. KERLIN: Okay. Go to the next	3	am amazed that no one at the corps agrees
4	document, please. You can skip to 328.	4	with law enforcement.
5	(Exhibit 328 marked)	5	Do you see that?
6	BY MR. KERLIN:	6	A. Yes.
7	Q. For this one at the top it says, sir --	7	Q. Does that refresh your recollection at
8	so this is from John Voeller, and he's CCing	8	all about your disagreement with what the
9	you as well but directing it to Mr. Thomas.	9	corp was allowing protestors to do and go
10	Sir, the corps is going to allow a prayer	10	behind all law enforcement defenses?
11	ceremony to take place tomorrow on the USACE	11	A. Yes, like I said, I just don't -- I just
12	property to the east of the drill pad.	12	didn't recollect what the issue was about,
13	Individuals will be accessing the area by	13	but reading this, I understand that I wrote
14	boat instead of land. Major Startzell will	14	that, and I agree with it and all, and I
15	be notifying Sheriff Kirchmeier of this.	15	agree with what I wrote then.
16	There will be three USACE personnel escorting	16	Q. And can you tell me about why you were
17	the group into the site for the ceremony.	17	disappointed with this and that you disagreed
18	Do you see that?	18	with what was being allowed to be done.
19	A. Yes.	19	A. Well, apparently -- apparently, they
20	Q. Okay. Do you recall at all a boat being	20	wanted the -- allowing the permit to allow
21	allowed to go up the river to where the	21	them to protest and congregate and pray or
22	prayer ceremony was going to take place on	22	whatever they wanted to without us having any
23	corps land?	23	control of the situation, of the scene, of
24	A. I recall something about the boat being	24	having them behind our defenses just isn't a
25	used, but, like I said, the whole issue, I've	25	good tactical thing to do. Puts law

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<p style="text-align: right;">Page 118</p> <p>1 enforcement at risk.</p> <p>2 Q. Do you recall if you got any type of a</p> <p>3 response or a phone call, or is there anyone</p> <p>4 that raised any, you know, that your email</p> <p>5 raised concerns for the corps and that the</p> <p>6 corps would change course or consider what</p> <p>7 law enforcement was saying on this issue?</p> <p>8 A. I don't recall if I -- to be honest with</p> <p>9 you, I don't recall sending this email until</p> <p>10 you showed it to me. So I don't recall at</p> <p>11 all if there was any response.</p> <p>12 Q. As you sit here today, you do recall</p> <p>13 this email, and you stand behind your</p> <p>14 decision, having seen it now; is that fair?</p> <p>15 A. Yes.</p> <p>16 MR. KERLIN: Okay. You can take</p> <p>17 that down.</p> <p>18 I'd like to bring up the next</p> <p>19 exhibit, which is 332.</p> <p>20 (Exhibit 332 marked)</p> <p>21 BY MR. KERLIN:</p> <p>22 Q. I want to say this is another email</p> <p>23 that's been forwarded, so I want to go to the</p> <p>24 end and work our way backwards. Or work our</p> <p>25 way forward through time, is a better way to</p>	<p style="text-align: right;">Page 120</p> <p>1 feel the OGC opinion was wrong, I have</p> <p>2 attached a significant incident report. In</p> <p>3 the report, the DUSM shot an active shooter.</p> <p>4 This assumable within a high school. This</p> <p>5 goes exactly to what I was saying. He had a</p> <p>6 duty to respond, and he did, doing the right</p> <p>7 thing. I don't see the federal nexus OGC</p> <p>8 referred to.</p> <p>9 Again, I don't want to get into</p> <p>10 OGC, I just want to get into your</p> <p>11 communication with Mr. Snelson. Do you</p> <p>12 recall why you sent this to him?</p> <p>13 A. Was that a question?</p> <p>14 Q. Yes. Why did you forward this</p> <p>15 incident -- I guess you get these incident</p> <p>16 notifications as a US Marshal that go out</p> <p>17 when things happen that, I guess, involves</p> <p>18 the marshal service, and you forwarded that</p> <p>19 to Mr. Snelson. Why did you do that?</p> <p>20 A. It was indicative of what marshal</p> <p>21 service has done in recent past and</p> <p>22 historically since the onset of the marshal</p> <p>23 service. It would be the federal law</p> <p>24 enforcement agency to assist local law</p> <p>25 enforcement, if and when they're needed.</p>
<p style="text-align: right;">Page 119</p> <p>1 say it.</p> <p>2 So the first is an incident</p> <p>3 notification dated September 8th of 2016, and</p> <p>4 it talks about DUSM responded to active</p> <p>5 shooter at HS. DUSM shot and wounded active</p> <p>6 shooter.</p> <p>7 What is -- do you know what DUSM</p> <p>8 stands for?</p> <p>9 A. Deputy United States Marshal.</p> <p>10 Q. And then you forwarded this.</p> <p>11 MR. KERLIN: If we go up to the</p> <p>12 next, the next thing above it; right.</p> <p>13 BY MR. KERLIN:</p> <p>14 Q. So it's forwarded from you to William</p> <p>15 Snelson. Who is William Snelson?</p> <p>16 A. Well, apparently, he's somebody with the</p> <p>17 marshal service. I don't know. I don't</p> <p>18 know.</p> <p>19 Q. I can see on my copy right above it says</p> <p>20 he's Associate Director for Operations at the</p> <p>21 United States Marshal Service.</p> <p>22 A. Okay.</p> <p>23 Q. And you say, Bill, thank you for</p> <p>24 speaking with me this morning and for your</p> <p>25 continued support. As an example of why I</p>	<p style="text-align: right;">Page 121</p> <p>1 Apparently, in this situation, a deputy US</p> <p>2 Marshal responded to a high school school</p> <p>3 shooting in assistance of local law</p> <p>4 enforcement because he was the closest or</p> <p>5 nearby. When I had spoke to OGC, they had</p> <p>6 told me that we didn't have a federal nexus</p> <p>7 in this situation.</p> <p>8 MR. SCARPATO: Mr. Ward, I'm going</p> <p>9 to step in and ask you not to divulge</p> <p>10 communications that you had with OGC. If you</p> <p>11 can answer the question fairly and truthfully</p> <p>12 without reference to those communications,</p> <p>13 you can go ahead. Thank you.</p> <p>14 THE WITNESS: Okay. What I was</p> <p>15 trying to explain to Bill was our situation</p> <p>16 in North Dakota was exactly the same as the</p> <p>17 situation listed in the significant interest</p> <p>18 report where the deputy responded to help</p> <p>19 local law enforcement just because the only</p> <p>20 difference was his assistance was required in</p> <p>21 a situation that was fluid at the time, that</p> <p>22 immediately happened, involved preparation,</p> <p>23 where ours, you could prepare for it and</p> <p>24 still provide the assistance. But the</p> <p>25 assistance is what was needed. And the</p>

121:14-  
122:2  
401-402;  
602;  
701/702  
calls for  
legal  
concl.  
and  
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123:23-124:22

401-402

121:14-122:2  
401-402; 602;  
701/702 calls for  
legal concl.

122:7-123:22  
401-402; 611

Page 122  
1 declination of the assistance is one I never  
2 understood, and I don't understand today.

3 MR. KERLIN: Go to the next. So  
4 then I just want to go -- even if you just  
5 want to zoom in on the dates here.

6 BY MR. KERLIN:

7 Q. So then we have September 8th, 2016, so  
8 shortly after you sent that, hey, Marshal, I  
9 contacted DOJ today, but I have not heard  
10 back yet. Have a good night.

11 MR. KERLIN: Then we go to the next  
12 one above it.

13 BY MR. KERLIN:

14 Q. And so there's a follow-up from you. We  
15 have to go to the previous page to see the  
16 start of it. So now we're -- it's now  
17 October 25th, and then you say, good morning,  
18 Bill. Below is a message that I sent you in  
19 September regarding providing support to  
20 locals. Am not good with computers, but I  
21 don't think I received your response yet. My  
22 message today is the same. The locals are in  
23 need of SOG assistance in regards to the  
24 major ops plan starting this week. An  
25 extraction team is needed for emergencies.

Page 124  
1 this as well, on the CC. You say,  
2 Mr. Snelson, I am sending this message with

3 the utmost urgency. Local law enforcement in  
4 ND is about to be overrun at the protest site  
5 located at the DAPL pipeline. I have been  
6 informed by the sheriff that approximately  
7 400 protestors have breached barricades and  
8 are advancing on law enforcement. A  
9 statewide request for all assistance has gone  
10 out, and the US Attorney has sent requests to  
11 DC requesting any and all available federal  
12 assistance. All available state resources  
13 from ND and surrounding states have been  
14 exhausted, and, at this point, we are  
15 severely outnumbered. Please consider  
16 providing manpower to assist. Politics  
17 aside, lives are at stake. Thank you, Paul  
18 Ward.

19 Do you see that?

20 A. Yes.

21 Q. Do you recall making this request?

22 A. Yes.

23 Q. Can you tell me why you included, in the  
24 first sentence you said, I am sending this  
25 message with the utmost urgency. Why did you

124:23-

125:10

602;

701/

702

expert test.

Page 123  
1 Can you advise me if we can do anything to  
2 assist.

3 MR. KERLIN: And if we go to the  
4 response.

5 BY MR. KERLIN:

6 Q. Do you recall making that follow-up  
7 request that I just read you?

8 A. I don't recall, but, apparently, I did.

9 Q. But it's consistent with what you were  
10 saying earlier, isn't it, that you made  
11 repeated requests for assistance; correct?

12 A. Yes.

13 Q. Then there's the October -- so we get --  
14 you did get a response from Mr. Snelson,  
15 Marshal Ward, I apologize for not responding  
16 directly to you. You know, it says in the  
17 second paragraph, it says the message that  
18 you gathered that it's being denied?

19 A. Yes.

20 MR. KERLIN: I want to go to the  
21 email at the top.

22 BY MR. KERLIN:

23 Q. So now it's November 20th of 2016, and  
24 you send an email to Mr. Snelson, among some  
25 others, and you include Sheriff Kirchmeier on

Page 125  
1 say utmost urgency?

2 A. It was an urgent situation. Law  
3 enforcement was at risk. Potential for  
4 violence was high.

5 Q. Do you stand by your statements that I  
6 read to you in your email, all available  
7 resources from ND and surrounding states have  
8 been exhausted, and, at this point, we are  
9 severely outnumbered; is all that accurate?

10 A. Yes.

11 Q. You mentioned in the last line, where it  
12 says, please consider providing manpower to  
13 assist. You then say, politics aside, lives  
14 are at stake. What do you mean by politics  
15 aside?

16 A. It seemed to me at the time that a cop  
17 is a cop, and we all think the same way, and  
18 even if you are a newly appointed deputy  
19 marshal right out of the academy, all the way  
20 up to supervision to headquarters, right to  
21 the director, we all think the same way, and  
22 I think, and this is just my opinion, and I  
23 know I'm not supposed to give opinions, but  
24 what the hell, I'm gonna do it. He -- if the  
25 director was alone in making his decision

125:11-

25

401-402

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126:1-127:12  
401-402; 602

<p>1       with the deputy director and the marshal</p> <p>2       involved on a conversation, I don't think</p> <p>3       there would have been hesitation whatsoever</p> <p>4       in me making a request and him providing me</p> <p>5       troops from wherever he had extra troops. He</p> <p>6       would have sent them from all over the</p> <p>7       country, if it was up to him. I don't think</p> <p>8       it was up to him. I think he got the</p> <p>9       direction from -- I don't know. Attorney</p> <p>10      general? I don't know where it came from.</p> <p>11      Somewhere up above him. He answered to the</p> <p>12      attorney general. Some somewhere up above.</p> <p>13      Just seemed to me to be political. That was</p> <p>14      the assumption of all the sheriffs. Granted,</p> <p>15      I was appointed by a Democratic president,</p> <p>16      most of the sheriffs in North Dakota were</p> <p>17      Republican, so I was somewhat swayed by their</p> <p>18      influence. But the experience of it told me</p> <p>19      that it was higher up than the marshal</p> <p>20      service. But nobody would tell me that.</p> <p>21      You have to understand, and it</p> <p>22      seems to me that you have to understand that</p> <p>23      the difficulty it is for somebody like me to</p> <p>24      turn another cop down, and on the level at</p> <p>25      which I had to turn them down wasn't just cop</p>	<p style="text-align: right;">Page 126</p> <p>1       BY MR. KERLIN:</p> <p>2       Q.     Welcome back after a short break.</p> <p>3       May I continue?</p> <p>4       A.     Yes. <span style="float: right;">128:5-129:2 401-402</span></p> <p>5       Q.     All right. I want to talk to you a</p> <p>6       little bit about the relationship between the</p> <p>7       marshal service and the department of</p> <p>8       justice. Can you tell me how those interact</p> <p>9       or relate in the federal government.</p> <p>10      A.     Marshal service is part of the</p> <p>11      department of justice. Like the FBI or DEA,</p> <p>12      we answer to the direction of the department</p> <p>13      of justice, the attorney general.</p> <p>14      Q.     That was going to be my question.</p> <p>15      Ultimately, the attorney general for the</p> <p>16      United States is the head of the department</p> <p>17      of justice; correct?</p> <p>18      A.     Ultimately, yes.</p> <p>19      Q.     And, at the time, that was Attorney</p> <p>20      General Loretta Lynch; is that correct?</p> <p>21      During the protests in 2016?</p> <p>22      A.     Yes.</p> <p>23      Q.     Sorry. I didn't mean to talk over you.</p> <p>24      Within the US Marshal Service, is</p> <p>25      there any type of a rapid response team or</p>
<p>1       to cop. It was an abundance of cops to an</p> <p>2       abundance of cops. You take the abundance of</p> <p>3       the federal level resources that I should</p> <p>4       have been able to provide as the US Marshal,</p> <p>5       as being presidentially appointed, and I'm</p> <p>6       requested by local sheriffs to provide</p> <p>7       assistance on federal land on a federal</p> <p>8       issue, and I have to turn them down because</p> <p>9       nobody will back me from headquarters.</p> <p>10      That's one of the most -- not one of -- it's</p> <p>11      the most the disappointing thing I've ever</p> <p>12      done in 40 years of law enforcement.</p> <p>13      MR. KERLIN: We've been going</p> <p>14      approximately about an hour. It's probably a</p> <p>15      good point to take a brief break, and then I</p> <p>16      think I can probably be completed within --</p> <p>17      within less than an hour, so we can finish up</p> <p>18      today.</p> <p>19      THE VIDEOGRAPHER: We're going off</p> <p>20      the record. Universal coordinated time is</p> <p>21      1833. We're off the record.</p> <p>22      (Pause in proceedings)</p> <p>23      THE VIDEOGRAPHER: We are now back</p> <p>24      on the record. Universal coordinated time is</p> <p>25      1840.</p>	<p style="text-align: right;">Page 127</p> <p>1       emergency response team?</p> <p>2       A.     Yes.</p> <p>3       Q.     And is that one type of an asset that</p> <p>4       can be deployed with approval of the US</p> <p>5       Marshal Service if it's appropriate to do so</p> <p>6       and approved to do so?</p> <p>7       MR. SCARPAUTO: Objection, calls for</p> <p>8       a legal conclusion.</p> <p>9       You can answer.</p> <p>10      THE WITNESS: Yes.</p> <p>11      BY MR. KERLIN:</p> <p>12      Q.     And what is that type of response team?</p> <p>13      Can you just provide a little bit of -- just</p> <p>14      explain kind of what that entails or what</p> <p>15      that would be if the request came in and was</p> <p>16      approved for that type of rapid response team</p> <p>17      or emergency response team.</p> <p>18      A.     In essence, what you may know as the</p> <p>19      SWAT team type response, headquarters</p> <p>20      actually did provide a SOG team, special</p> <p>21      operations team to Bismarck. They stationed</p> <p>22      within the courthouse, but they were</p> <p>23      restricted to any attacks on the courthouse</p> <p>24      itself. They weren't here to respond, to</p> <p>25      assist local law enforcement at the protest</p>

129:3-  
10  
401-402  
;  
701/702  
calls for  
legal  
conclusi  
on

129:12-  
131:1  
401-40  
2

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<p>1 site.</p> <p>2 Q. And I guess they weren't authorized to</p> <p>3 then go onto US Army Corps, in essence,</p> <p>4 federal land, and address issues that might</p> <p>5 arise on that area?</p> <p>6 A. No. They had to stay within the</p> <p>7 courthouse.</p> <p>8 Q. And just so I'm clear, the acronym for</p> <p>9 that is SOG? Is that what it's called?</p> <p>10 A. Yes.</p> <p>11 Q. And can you give us an idea of how large</p> <p>12 that type of team can be.</p> <p>13 A. The team that responded, I don't know</p> <p>14 how many guys there were. There were maybe</p> <p>15 ten. Nine guys plus all their equipment.</p> <p>16 But that's just one regional division of SOG.</p> <p>17 They had regional teams all over the country.</p> <p>18 There might have been one, I don't know where</p> <p>19 they came from, let's say it was Minneapolis.</p> <p>20 For instance, they were assigned to the</p> <p>21 Midwest. And there may be one, maybe, in</p> <p>22 Portland, Oregon, or that type of place.</p> <p>23 They handle the Upper Northwest, you know,</p> <p>24 for their own country. So their numbers</p> <p>25 could increase depending on the severity of</p>	<p style="text-align: right;">Page 132</p> <p>1 Q. Okay. And do you recall why that</p> <p>2 request was made?</p> <p>3 A. I don't recall the exact situation. I</p> <p>4 don't recall if there was intel that</p> <p>5 indicated that they needed that vehicle to --</p> <p>6 maybe as a rescue vehicle, get somebody out</p> <p>7 of the protest sites or that type of thing.</p> <p>8 I'm not sure what the reasonings were. I</p> <p>9 just don't recall what they were, but</p> <p>10 something like that would have been a</p> <p>11 legitimate reason.</p> <p>12 Q. Was that something that was -- was that</p> <p>13 a US Marshal vehicle that was -- that you</p> <p>14 allowed to be used?</p> <p>15 A. I think so, yes.</p> <p>16 Q. Again, you can't remember any of the</p> <p>17 particulars about to whom you let use that or</p> <p>18 for what specific reason or occasion or</p> <p>19 things of that nature?</p> <p>20 A. Well, like I said, I know one of the</p> <p>21 situations would have been if somebody needed</p> <p>22 to get out of that protest situation quickly,</p> <p>23 and they would have, you know, sent a bunch</p> <p>24 of law enforcement along with it to extract</p> <p>25 somebody. That's one. But I don't know.</p>
<p>131:2-7 401-402; 602; 701/702 calls for a legal conclusion</p> <p>1 the need.</p> <p>2 Q. So if the call went out, and they</p> <p>3 needed, for instance, more than one of these</p> <p>4 SOG teams, that's something that could be</p> <p>5 potentially mobilized to respond to whatever</p> <p>6 the need is or the call?</p> <p>7 A. Yes.</p> <p>8 MR. SCARPATO: Objection,</p> <p>9 foundation, calls for a legal conclusion.</p> <p>10 You can answer.</p> <p>11 BY MR. KERLIN:</p> <p>12 Q. And then also to have an understanding</p> <p>13 of -- what about other federal resources for</p> <p>14 law enforcement that would be available? Are</p> <p>15 you familiar with what the FBI would have</p> <p>16 that would be available if the call was made</p> <p>17 for FBI assistance?</p> <p>18 A. I don't know. You'd have to ask</p> <p>19 supervision in FBI. I don't know what they</p> <p>20 have.</p> <p>21 Q. At some point during the protest, was</p> <p>22 there ever a request made for an armored</p> <p>23 Suburban?</p> <p>24 A. I recall that we did make that request,</p> <p>25 yes.</p>	<p style="text-align: right;">Page 131</p> <p>1 Q. Do you recall at some point in time,</p> <p>2 later into the fall and winter, if there was</p> <p>3 a need for a potential evacuation of some of</p> <p>4 the protestors on corps land?</p> <p>5 A. I don't recall that, no.</p> <p>6 Q. And do you recall -- okay. Fair enough.</p> <p>7 We'll leave it at that.</p> <p>8 I want to show you something and</p> <p>9 see if -- so it's Exhibit 343, but, actually,</p> <p>10 before we get there, let's -- before I --</p> <p>11 what was your last day before you retired,</p> <p>12 your last day as US Marshal?</p> <p>13 A. December 31st of 2016.</p> <p>14 Q. Any particular reason why you retired?</p> <p>15 A. 41 years.</p> <p>16 Q. Good reason. Were the protests still</p> <p>17 continuing with people camping and protestors</p> <p>18 camping on corps land when you left the</p> <p>19 marshal service?</p> <p>20 A. Yes. And my retirement plans were in</p> <p>21 place long before the protests initiated.</p> <p>22 Q. Did you have any further involvement</p>

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	Page 134	Page 136
1	with the protests or law enforcement response	1 BY MR. KERLIN:
2	after December 31st, 2016?	2 Q. So we'll just start with the first
3	A. No.	3 paragraph and the first sentence. It says,
4	MR. KERLIN: Could we bring up	4 as the chief law enforcement officers tasked
5	Exhibit 343.	5 with managing the ongoing protest actions in
6	(Exhibit 343 marked)	6 North Dakota surrounding the completion of
7	BY MR. KERLIN:	7 the Dakota Access Pipeline, we are writing to
8	Q. This is an email that you're not on. It	8 request that the federal government begin
9	went to a lot of Corps of Engineers folks,	9 supporting North Dakota and North Dakota law
10	and it's from James Startzell, Major	10 enforcement with actions, not words.
11	Startzell, and at the bottom it says, all,	11 Do you see that?
12	please see DAPL daily update below, and it	12 A. Yes.
13	has attachment, LE federal letter final-3	13 Q. Do you agree with what the various North
14	PDF. We'll show that to you in a minute.	14 Dakota law enforcement officers' statement
15	If we go to the next page, at the	15 that, as of December 9, 2016, that North
16	top there it says, number of protestors/law	16 Dakota hadn't been supported by the federal
17	enforcement action, estimated counted in the	17 government with anything other than words?
18	camp -- camps is 1200-1400 people. No change	18 MR. SCARPATO: Objection, vague,
19	to law enforcement situation. Law	19 foundation.
20	enforcement submitted the attached press	20 THE WITNESS: I guess the only
21	release signed by LE from North Dakota,	21 other thing I can think of other than words
22	criticizing the federal government harshly	22 were use of those Suburbans as far as the
23	for not aiding the state and local	23 Suburbans were discussed.
24	authorities and again calling for action.	24 BY MR. KERLIN:
25	I want to go to the attachment,	25 Q. Fair enough. Outside of that, nothing
	Page 135	Page 137
1	which is, I believe, that document. I'm	1 else comes to mind as far as support; is that
2	going to show you the whole document, and	2 accurate?
3	we'll go through it. It's a total of three	3 A. Yes.
4	pages, but this is the first page. It's on	4 Q. The next paragraph, the November 25th
5	the letterhead of Morton County Sheriff	5 letter sent by Colonel Henderson of the US
6	Department, Kyle L. Kirchmeier Sheriff, and	6 Army Corps of Engineers to Standing Rock
7	it's dated December 9th, 2016, directed to	7 Sioux Tribal Chairman David Archambault,
8	President Barack Obama.	8 informing him of the closure of corps land to
9	And if we go to the next page, it	9 public use as of December 5th was an
10	continues on, and then at the end I want to	10 important and heartening step, but this past
11	show you the signature pages, page with	11 Sunday's ruling by the USACE against the
12	signatures, and it has a number of different	12 pipeline's easement has done nothing to ease
13	law enforcement officers. Then it's CCed to	13 the tension or alleviate the potential for
14	Loretta Lynch, Attorney General; Sally Jewel,	14 more violence.
15	Secretary of the Interior; and Eric Fanning,	15 Did you become aware that in
16	Secretary of the Army.	16 November, the end of November, that the corps
17	Mr. Ward, do you recall seeing this	17 had then closed the land to public use at
18	open letter that was sent to President Obama?	18 some point?
19	A. I recall seeing it. Not before it was	19 A. I don't recall that.
20	sent, I didn't know anything about it until	20 Q. Okay. Next paragraph. We cannot
21	it was sent.	21 express strongly enough our need for
22	MR. KERLIN: I want to go to the	22 financial assistance and additional manpower
23	first page, and I just want to go through a	23 in order to follow through on the demands
24	couple of parts of it, I'm sorry, of the --	24 made in the November 25th letter and respond
25	there we go.	25 to the increasingly dangerous situation

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137:20-138:20  
401-402; 602; 611;  
701/702 expert test.

1 developing on federal land owned by the  
2 corps. Specifically, the support of 100  
3 border patrol agents and members of the US  
4 Marshal Special Operations Group would allow  
5 us to maintain effective control over this  
6 situation.

7 Do you agree that if 100 border  
8 patrol agents and members of the US Marshal  
9 Special Operations Group were provided to  
10 state law enforcement in North Dakota, that  
11 that would have been helpful to maintain  
12 effective control over the situation, as  
13 stated in this?

14 MR. SCARPATO: Objection, misstates  
15 the evidence and calls for speculation.

16 THE WITNESS: I believe it would  
17 have been helpful. I don't know that it  
18 would have been absolute resolution. Would  
19 have needed more, for all I know, but it  
20 would have been helpful.

21 BY MR. KERLIN:

22 Q. Let's skip the next paragraph, and in  
23 the interest of time, we'll go to the next  
24 one.

25 Throughout this process, law

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1 peacefully exercise their First Amendment  
2 rights?  
3 A. Yes.  
4 Q. Do you also agree that, instead of  
5 partnering with local -- North Dakota law  
6 enforcement, the federal government had  
7 treated North Dakota law enforcements as  
8 through they were not to be trusted?

9 MR. SCARPATO: Objection, vague,  
10 foundation.

11 THE WITNESS: I don't know if I can  
12 agree with that. No, I don't necessarily  
13 agree that the federal government didn't  
14 trust us. I'm just saying they didn't  
15 support them.

16 BY MR. KERLIN:

17 Q. The next paragraph. Go to the last  
18 sentence. It says, however, every time I  
19 have asked the federal government for  
20 assistance, they have instead responded with  
21 resistance. Is that consistent with your  
22 requests that you made for federal assistance  
23 as a US Marshal?

24 MR. SCARPATO: Objection, vague.

25 THE WITNESS: Every time when

140:4-15  
401-402;  
602; 611

if  
objections  
overruled,  
106

140:17-141:  
9 401-402

138:25-139:11 401-402

1 enforcement has acted methodically, safely,  
2 and with great restraint. Our only concern  
3 is the safety of our state, its citizens, and  
4 those who visit, including those who  
5 peacefully exercise their First Amendment  
6 rights. And, yet, instead of embracing us as  
7 partners in an effort to defend the rule of  
8 law, the federal government has treated us as  
9 though we're not to be trusted.

10 Did I read that correctly?

11 A. Yes.

12 Q. Want to start with the first part of  
13 that paragraph. Do you agree that,  
14 throughout the process, North Dakota law  
15 enforcement has acted methodically, safely,  
16 and with great restraint?

17 MR. SCARPATO: Objection,  
18 foundation.

19 THE WITNESS: Yes, I do.

20 BY MR. KERLIN:

21 Q. Do you agree that the law enforcement  
22 for North Dakota that you interacted with as  
23 US Marshal, that they expressed their concern  
24 is the safety of their citizens, its state,  
25 those who visit, and also those who

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1 referring to DAPL protests, certainly not any  
2 other time under my direction. In other  
3 words, if the sheriff called my office and  
4 said he needed assistance in serving a  
5 felonious warrant, an arrest warrant, we  
6 would have -- we acted immediately to assist  
7 him. But in the DAPL situation, I would say  
8 that he was met by resistance, but certainly  
9 not every time in any other situation.

10 MR. KERLIN: Go to the next  
11 paragraph on the next page.

12 BY MR. KERLIN:

13 Q. Go to the -- it's actually the third  
14 sentence, it starts, when protestors take  
15 over the lobby of the William Guy federal  
16 building in Bismarck, who is asked to  
17 respond? Local law enforcement.

18 Is that consistent with your  
19 recollection of when there was some protests  
20 that had moved to the federal building in  
21 Bismarck?

22 A. They weren't admitted into the building.  
23 They didn't get into the lobby. Got up to  
24 the outside of the doors. Yes, other than  
25 that, that's my recollection.

139:12-19  
602; 701/702 expert  
test. and calls for legal  
concl.

139:21-140:3  
401-402; 802

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<p style="text-align: right;">Page 142</p> <p>1 Q. And local law enforcement, as you 2 mentioned earlier, Bismarck PD came and 3 assisted as much as they had the resources to 4 do so?</p> <p>5 A. Yes.</p> <p>6 MR. KERLIN: Next paragraph, I'm 7 sorry, the paragraph after that. We'll go 8 down to the third.</p> <p>9 BY MR. KERLIN:</p> <p>10 Q. On this letter they state, the federal 11 government's response to the events in our 12 community has been appalling, and it is 13 abundantly clear they have no interest in 14 helping the citizens of North Dakota.</p> <p>15 Based on your experiences, is that 16 consistent with what happened?</p> <p>17 MR. SCARPATO: Objection, vague.</p> <p>18 THE WITNESS: I guess so, yes.</p> <p>19 MR. KERLIN: Go to the 20 second-to-last paragraph.</p> <p>21 BY MR. KERLIN:</p> <p>22 Q. Despite our anger and frustration with 23 federal officials in Washington, DC, their 24 local representatives, specifically US 25 Attorney Chris Myers and US Marshal Paul</p>	<p style="text-align: right;">Page 144</p> <p>1 MR. KERLIN: We can take this 2 exhibit down.</p> <p>3 BY MR. KERLIN:</p> <p>4 Q. You mentioned earlier -- I think you 5 mentioned earlier in your deposition that at 6 some point you might have had a sit-down 7 meeting with Chairman Archambault?</p> <p>8 A. Yes.</p> <p>9 Q. Okay. Do you recall any particulars 10 about that conversation?</p> <p>11 A. You know, it was a very small meeting. 12 It was Chris Myers, myself, maybe James 13 Thomas, Chairman Archambault. One thing I 14 recall about that specific meeting was 15 chairman looking me square in the eye and 16 telling me that whole thing was the marshal 17 service's fault, which took me aback to some 18 degree. He referred to back in the 1800s 19 when the marshal service came and kicked the 20 Native Americans off their land and put them 21 on the reservation, which was a bit of an 22 exaggeration, I think, or afar from what we 23 were trying to address at the time. And that 24 was the only thing that you asked me what 25 specifically in that meeting I recall, that's</p>
<p style="text-align: right;">Page 143</p> <p>1 Ward, have been tireless champions of our 2 cause. They understand the dynamics of what 3 is occurring within their community and have 4 repeatedly communicated this through their 5 chain of command, only to be met with 6 resistance and contempt for their concerns.</p> <p>7 My question to you is, is what you 8 experienced when you asked for support 9 consistent with what was described in this 10 letter, this paragraph?</p> <p>11 MR. SCARPATO: Objection, vague.</p> <p>12 THE WITNESS: I don't know that I 13 would use the words as strongly as resistance 14 and contempt for their concerns. I don't 15 think our administration, including the 16 director, had any contempt whatsoever for my 17 concerns and my requests. It's just that 18 they couldn't abide by those requests. I 19 think he understood the need for the 20 requests. He just couldn't do it.</p> <p>21 Basically, the words used written by the 22 sheriff are a little stronger than what I 23 would say.</p> <p>24 BY MR. KERLIN:</p> <p>25 Q. Thank you for that clarification.</p>	<p style="text-align: right;">Page 145</p> <p>1 it.</p> <p>2 Q. Okay. Unless you've indicated during 3 the course of this deposition that you didn't 4 understand my questions, have you understood 5 the questions that I've asked today?</p> <p>6 A. Yes.</p> <p>7 Q. Is there anything further that you would 8 like to add?</p> <p>9 A. No.</p> <p>10 Q. Have I been respectful and courteous to 11 you throughout this deposition today?</p> <p>12 A. Yes.</p> <p>13 Q. I wanted to express my -- I wanted to 14 express my personal appreciation for your 15 service over 40 years, both in the Air Force 16 as well as a law enforcement officer. Thank 17 you for that.</p> <p>18 A. You're welcome. Thank you.</p> <p>19 MR. KERLIN: At this time, I don't 20 have any further questions and would pass the 21 witness to counsel for the United States at 22 this time.</p> <p>23 Mr. Scarpato, we can't hear you.</p>

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**ND OBJ:**  
As to 146:3-9,  
147:15-149:7,  
Relevance

<p style="text-align: right;">Page 146</p> <p>1 EXAMINATION</p> <p>2 BY MR. SCARPATO:</p> <p>3 Q. Mr. Ward, what I hope is only five or</p> <p>4 ten minutes of questions. Are you okay, or</p> <p>5 would you like to stretch your legs briefly</p> <p>6 before we -- before I do that?</p> <p>7 A. No. That's fine.</p> <p>8 Q. Okay. Great. So at any point you want</p> <p>9 a break, please just let me know.</p> <p>10 I'd like to ask about your</p> <p>11 discussion from earlier today about the</p> <p>12 director of the marshal service, and the</p> <p>13 person above the director would have been the</p> <p>14 attorney general with respect to decision</p> <p>15 making for whether and where to deploy</p> <p>16 marshal service resources.</p> <p>17 Do you recall that conversation</p> <p>18 from earlier today?</p> <p>19 A. Yes.</p> <p>20 Q. So was it your belief at the time that</p> <p>21 decision whether or where to deploy federal</p> <p>22 law enforcement assets was made by senior</p> <p>23 political leadership in the executive branch</p> <p>24 of the federal government?</p> <p>25 A. I'm sorry. I don't know if I understood</p>	<p style="text-align: right;">Page 148</p> <p>1 Q. Were you a part of any federal agency's</p> <p>2 chain of command other than the United States</p> <p>3 Marshal Service?</p> <p>4 A. No, I wasn't.</p> <p>5 Q. As the US Marshal, did you have any</p> <p>6 decision making authority over whether to</p> <p>7 grant or deny any permit for the use of corps</p> <p>8 property under that agency's regulations?</p> <p>9 A. No.</p> <p>10 Q. And as the US Marshal, did you have any</p> <p>11 decision making authority over any decision</p> <p>12 concerning the management of the land that</p> <p>13 sits under the Corps of Engineers authority?</p> <p>14 A. No.</p> <p>15 Q. Are you familiar with any of the</p> <p>16 regulations governing the management of Corps</p> <p>17 of Engineers land?</p> <p>18 A. No.</p> <p>19 Q. Are you familiar with Executive Order</p> <p>20 13007 concerning access to Native American</p> <p>21 sacred sites on federally managed lands?</p> <p>22 A. No.</p> <p>23 Q. Are you familiar with Executive Order</p> <p>24 13175 concerning consultation and</p> <p>25 coordination with federally recognized Indian</p>
<p style="text-align: right;">Page 147</p> <p>1 your question.</p> <p>2 Q. Sure. Was it your impression at the</p> <p>3 time, based on what you had learned from</p> <p>4 others in law enforcement and what you were</p> <p>5 hearing from DC, that the decision whether to</p> <p>6 deploy federal law enforcement assets was</p> <p>7 ultimately made by senior political</p> <p>8 leadership above the director of the marshal</p> <p>9 service in the executive branch?</p> <p>10 MR. KERLIN: Calls for speculation.</p> <p>11 THE WITNESS: That was my</p> <p>12 understanding at the time, yes, that it was</p> <p>13 out of his hands.</p> <p>14 BY MR. SCARPATO:</p> <p>15 Q. And Mr. Ward, as the United States</p> <p>16 Marshal for the District of North Dakota,</p> <p>17 were you an employee of the US Army Corps of</p> <p>18 Engineers?</p> <p>19 A. No.</p> <p>20 Q. Were you a part of the Corps of</p> <p>21 Engineers chain of command?</p> <p>22 A. No.</p> <p>23 Q. Were you a part of the FBI's chain of</p> <p>24 command?</p> <p>25 A. No.</p>	<p style="text-align: right;">Page 149</p> <p>1 tribes?</p> <p>2 A. No.</p> <p>3 Q. And do you know the details of where the</p> <p>4 boundaries of corps land are in the</p> <p>5 Cannonball River Valley as opposed to tribal</p> <p>6 land or federal land?</p> <p>7 A. No.</p> <p>8 Q. My last question is, you mentioned a few</p> <p>9 times today that you may not remember some</p> <p>10 things because of the passage of time. As</p> <p>11 compared to your memory today, would you say</p> <p>12 that the documents from the time are a more</p> <p>13 reliable source of information about the</p> <p>14 details of what happened during the time</p> <p>15 period?</p> <p>16 A. Yes, I would imagine the documents are</p> <p>17 more specific, specifically if I sent or</p> <p>18 received an email, and I don't recall</p> <p>19 receiving it. I would assume that the</p> <p>20 document is the more accurate depiction of</p> <p>21 from my recollection.</p> <p>22 MR. SCARPATO: Thank you. Those</p> <p>23 are my questions. I appreciate your time,</p> <p>24 Mr. Ward.</p> <p>25 MR. KERLIN: I don't have anything</p>

PAUL WARD  
April 20, 2022

1 further.

2 THE VIDEOGRAPHER: All right. This

3 concludes the videotaped deposition. We're

4 now going off the record. Universal

5 coordinated time is 1912. We're off the

6 record.

7 (End of proceedings at 1:12 p.m.

8 MDT)

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2 C E R T I F I C A T E

3 I, Tracy E. Barksdale, Registered

4 Professional Reporter, do hereby certify that

5 there came before me via videoconference at

6 the time and place hereinbefore indicated,

7 the witness named on the caption sheet

8 hereof, who was by me duly sworn to testify

9 to the truth of said witness's knowledge,

10 touching and concerning the matters in

11 controversy in this cause; that the witness

12 was thereupon examined under oath, the

13 examination taken down by me in shorthand,

14 and later reduced to printed form under my

15 supervision and direction, and that the

deposition is a true record of the testimony

given and of all objections interposed.

I further certify that I am neither

attorney or counsel for, or related to or

employed by any of the parties to the action

in which this deposition is taken, and

further that I am not a relative or employee

of any attorney or counsel employed by the

parties hereto or financially interested in

the action.

Dated this 29th day of April 2022.

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TRACY E. BARKSDALE, RPR